

**Supplement to the**

**Arizona Administrative Code**

The official compilation of Arizona Rules

**Arizona Secretary of State's Office**

Public Services Division

1700 W. Washington Street, Fl 7.

Phoenix, AZ 85007

***Replacement Check List***

For rules filed within the

Third Calendar Quarter

July 1 - September 30, 2012

**Code Release Number: Supp. 12-3**

Questions about the rulemaking process? E-mail us at: [pubs@azsos.gov](mailto:pubs@azsos.gov) Questions about subscriptions? Call (602) 542-4086.

Dear Subscriber:

Enclosed you will find an Arizona Administrative Code order form for rules filed in the calendar quarter as specified above. In the past, you have ordered one or more of the Titles or Chapters listed below.

This supplement contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law for the stated calendar quarter.

These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State.

If you would like to order any of these Titles or Chapters as recently updated, please fill out the attached order form and enclose your check or money order payable to the "Secretary of State." All orders must be prepaid. Chapters are also available on our website, [www.azsos.gov](http://www.azsos.gov). Click on the Rules Filings link on the left navigation bar.

This supplement contains:

**TITLE 3. Agriculture**

- Chapter 2. Department of Agriculture - Animal Services Division
- Chapter 3. Department of Agriculture - Environmental Services Division
- Chapter 4. Department of Agriculture - Plant Services Division
- Chapter 6. Department of Agriculture - Office of Commodity Development and Promotion

**TITLE 4. Professions and Occupations**

- Table of Contents
- Chapter 7. Board of Chiropractic Examiners
- Chapter 17. Arizona Regulatory Board of Physician Assistants
- Chapter 19. Board of Nursing
- Chapter 22. Board of Osteopathic Examiners in Medicine and Surgery
- Chapter 24. Board of Physical Therapy
- Chapter 26. Board of Psychologist Examiners
- Chapter 29. Office of Pest Management
- Chapter 38. Board of Homeopathic and Integrated Medicine Examiners

**TITLE 6. Economic Security**

- Chapter 5. Department of Economic Security – Social Services
- Chapter 13. Department of Economic Security – State Assistance Programs

**TITLE 9. Health Services**

- Table of Contents
- Chapter 22. Arizona Health Care Cost Containment System – Administration
- Chapter 25. Department of Health Services – Emergency Medical Services
- Chapter 28. Arizona Health Care Cost Containment System – Arizona Long-term Care System
- Chapter 31. Arizona Health Care Cost Containment System – Children's Health Insurance Program

**TITLE 12. Natural Resources**

- Table of Contents
- Chapter 1. Radiation Regulatory Agency

**TITLE 13. Public Safety**

- Chapter 11. Board of Fingerprinting

**TITLE 17. Transportation**

- Table of Contents
- Chapter 3. Department of Transportation - Highways
- Chapter 5. Department of Transportation - Commercial Programs

**TITLE 19. Alcohol, Dog and Horse Racing, Lottery and Gaming**

- Chapter 3. Arizona State Lottery Commission

This page intentionally left blank.



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### TITLE 3. AGRICULTURE

#### **Chapter 2 - Department of Agriculture – Animal Services Division**

Sections, Parts, Exhibits, Tables or Appendices modified  
R3-2-203, R3-2-701, R3-2-810

☐ **REMOVE** Supp. 11-3  
Pages 1-40

☐ **REPLACE** Supp. 12-3  
with pages 1-40

#### **Chapter 3 - Department of Agriculture – Environmental Services Division**

Sections, Parts, Exhibits, Tables or Appendices modified  
R3-3-208

☐ **REMOVE** Supp. 11-3  
Pages 1-49

☐ **REPLACE** Supp. 12-3  
with pages 1-49

#### **Chapter 4 - Department of Agriculture – Plant Services Division**

Sections, Parts, Exhibits, Tables or Appendices modified  
R3-4-301

☐ **REMOVE** Supp. 11-3  
Pages 1-58

☐ **REPLACE** Supp. 12-3  
with pages 1-58

#### **Chapter 6 - Department of Agriculture – Office of Commodity Development and Promotion**

Sections, Parts, Exhibits, Tables or Appendices modified  
R3-6-102

☐ **REMOVE** Supp. 11-3  
Pages 1

☐ **REPLACE** Supp. 12-3  
with pages 1

This page intentionally left blank.



**TITLE 3. AGRICULTURE**  
**CHAPTER 2. DEPARTMENT OF AGRICULTURE**  
**ANIMAL SERVICES DIVISION**

(Authority: A.R.S. §§ 3-1201 et seq., 3-601 et seq., and 3-701 et seq., and 3-2901 et seq.)

*Chapter 2, Articles 1 through 7 renumbered from Title 3, Chapter 9, Articles 1 through 7; Article 8, consisting of Sections R3-2-801 through R3-2-808, renumbered from Title 3, Chapter 5, Article 1, Sections R3-5-01 through R3-5-08; Article 9, consisting of Sections R3-2-901 through R3-2-909 renumbered from Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109 (Supp. 91-4).*

*Article 1 consisting of Sections R3-9-101 through R3-9-103; Article 2 consisting of Sections R3-9-201 through R3-9-208; Article 3 consisting of Sections R3-9-301 and R3-9-302; Article 4 consisting of Sections R3-9-401 through R3-9-409; Article 5 consisting of Sections R3-9-501 through R3-9-504; Article 6 consisting of Sections R3-9-601 through R3-9-620; Article 7 consisting of Sections R3-9-701 and R3-9-702 adopted effective August 19, 1983.*

*Former Article 1 consisting of Sections R3-9-01 through R3-9-11; Article 2 consisting of Sections R3-9-16 through R3-9-26; Article 3 consisting of Sections R3-9-22 through R3-9-35; Article 4 consisting of Sections R3-9-46 through R3-9-48 repealed effective August 19, 1983.*

**ARTICLE 1. GENERAL PROVISIONS**

*Article 1, consisting of Section R3-2-101, adopted effective May 7, 1997 (Supp. 97-2).*

*Article 1, consisting of Sections R3-2-101 through R3-2-109, recodified to Article 11, Sections R3-2-1101 through R3-2-1109 (Supp. 97-1).*

*Article 1, consisting of Sections R3-2-101 through R3-2-109, adopted effective September 11, 1996 (Supp. 96-3).*

*Article 1, consisting of Sections R3-2-101 through R3-2-103, renumbered from R3-9-101 through R3-9-103 (Supp. 91-4).*

Section	
R3-2-101.	Definitions
R3-2-102.	Licensing Time-frames
R3-2-103.	Recodified
R3-2-104.	Recodified
R3-2-105.	Recodified
R3-2-106.	Recodified
R3-2-107.	Recodified
R3-2-108.	Recodified
R3-2-109.	Recodified
Table 1.	Time-frames (Calendar Days)

**ARTICLE 2. MEAT AND POULTRY INSPECTION**

*Article 2, consisting of Sections R3-2-201 through R3-2-208, renumbered from Sections R3-9-201 through R3-9-208 (Supp. 91-4).*

Section	
R3-2-201.	Definitions
R3-2-202.	Meat and Poultry Inspection; Slaughtering Standards
R3-2-203.	Licenses; Registration; Records
R3-2-204.	Official Slaughter Establishment
R3-2-205.	Requirements for Designation of Rendering Plants to Produce Certified Animal Fat
R3-2-206.	Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal
R3-2-207.	Meat from Dead Animals Processed and Decharacterized for Use as Animal Food
R3-2-208.	Diseased and Injured Animals
R3-2-209.	Exempt Non-mobile Slaughter Establishments

**ARTICLE 3. FEEDING OF ANIMALS**

*Article 3, consisting of Sections R3-2-301 and R3-2-302, renumbered from R3-9-301 and R3-9-302 (Supp. 91-4).*

Section	
R3-2-301.	Operation of Beef Cattle Feedlots
R3-2-302.	Permit to Feed Garbage to Swine; Requirements

**ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL**

*Article 4, consisting of Sections R3-2-401 through R3-2-409 renumbered from R3-9-401 through R3-9-409 (Supp. 91-4).*

Section	
R3-2-401.	Definitions
R3-2-402.	Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories
R3-2-403.	Individual Identification of Swine at Market
R3-2-404.	Importation, Manufacture, Sale, and Distribution of Biologicals and Semen
R3-2-405.	Depopulation of Animals Infected with a Foreign Disease
R3-2-406.	Disease Control; Feedlots
R3-2-407.	Equine Infectious Anemia
R3-2-408.	Disposition of Livestock Exposed to Rabies
R3-2-409.	Rabies Vaccines for Animals
R3-2-410.	Restricted Swine Feedlots
R3-2-411.	Exhibition Swine
R3-2-412.	Exhibition Sheep and Goats
R3-2-413.	Sheep and Goats; Intrastate Movement

**ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM**

*Article 5, consisting of Sections R3-2-501 and R3-2-504, renumbered from R3-9-501 and R3-9-504 (Supp. 91-4).*

Section	
R3-2-501.	Tuberculosis Control and Eradication Procedures
R3-2-502.	Repealed
R3-2-503.	Brucellosis Control and Eradication Procedures
R3-2-504.	Pseudorabies Procedures for Eradication
R3-2-505.	Scrapie Procedures for Eradication

**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS**

*Article 6, consisting of Sections R3-2-601 and R3-2-620, renumbered from R3-9-601 and R3-9-620 (Supp. 91-4).*

Section	
R3-2-601.	Definitions
R3-2-602.	Importation Requirements

R3-2-603.	Importation of Diseased Animals
R3-2-604.	Livestock Permit Requirements; Exceptions
R3-2-605.	Quarantine for Animals Entering Illegally
R3-2-606.	Health Certificate
R3-2-607.	Permit Number
R3-2-608.	Consignment of Animals
R3-2-609.	Diversion; Prohibitions
R3-2-610.	Tests; Official Confirmation
R3-2-611.	Transporter Duties
R3-2-612.	Importation of Cattle and Bison
R3-2-613.	Swine
R3-2-614.	Sheep and Goats
R3-2-615.	Equine Importation
R3-2-616.	Cats and Dogs
R3-2-617.	Poultry
R3-2-618.	Psittacine Birds
R3-2-619.	Repealed
R3-2-620.	Zoo Animals
R3-2-621.	Non-restricted Live Wildlife Cervidae
R3-2-622.	Monkeys

**ARTICLE 7. LIVESTOCK INSPECTION**

*Article 7, consisting of Sections R3-2-701 and R3-2-703, renumbered from R3-9-701 and R3-9-703 (Supp. 91-4).*

## Section

R3-2-701.	Department Livestock Inspection
R3-2-702.	Livestock Self-inspection
R3-2-703.	Seasonal Self-inspection Certificate
R3-2-704.	Repealed
R3-2-705.	Repealed
R3-2-706.	Repealed
R3-2-707.	Ownership and Hauling Certificate for Equines; Fees
R3-2-708.	Equine Rescue Facility Registration

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**

(Authority: A.R.S. § 3-601 et seq.)

*Article 8, consisting of Sections R3-2-801 through R3-2-808, renumbered from R3-5-01 through R3-5-08 (Supp. 91-4).*

## Section

R3-2-801.	Definitions
R3-2-802.	Milk and Milk Product Standards
R3-2-803.	Milk and Milk Products Labeling
R3-2-804.	Trade Products
R3-2-805.	Grade A Raw Milk For Consumption
R3-2-806.	Parlors and Milk Rooms
R3-2-807.	Frozen Dessert Plant and Processing Standards
R3-2-808.	Frozen Desserts Reconstituted from Powdered Mixes
R3-2-809.	Medicinal, Chemical and Radioactive Residues in Milk
R3-2-810.	License Fees

**ARTICLE 9. EGG AND EGG PRODUCTS CONTROL**

(Authority: A.R.S. § 3-701 et seq.)

*Article 9, consisting of Sections R3-2-901 through R3-2-909 renumbered from R3-6-101 through R3-6-109 (Supp. 91-4).*

## Section

R3-2-901.	Definitions
R3-2-902.	Standards, Grades, and Weight Classes for Shell Eggs
R3-2-903.	Sampling; Schedule and Methods for Evidence
R3-2-904.	Quarterly Report Periods
R3-2-905.	Inspection Fee Rate

R3-2-906.	Violations and Penalties
R3-2-907.	Poultry Husbandry; Standards for Production of Eggs
R3-2-908.	Sanitary Standards; Egg Processing
R3-2-909.	Repealed

**ARTICLE 10. AQUACULTURE**

(Authority: A.R.S. § 3-2901 et seq.)

*Article 10, consisting of Sections R3-2-1001 through R3-2-1010, adopted effective May 3, 1993 (Supp. 93-2).*

## Section

R3-2-1001.	Definitions
R3-2-1002.	Fees for Licenses; Inspection Authorization and Fees
R3-2-1003.	General Licensing Provisions
R3-2-1004.	Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility
R3-2-1005.	Fee Fishing Facility
R3-2-1006.	Processor License
R3-2-1007.	Transporter License; Transport; Delivery
R3-2-1008.	Repealed
R3-2-1009.	Disease Certification
R3-2-1010.	Importation of Aquatic Animals

**ARTICLE 11. EXPIRED**

*Article 11, consisting of Sections R3-2-1101 through R3-2-1109, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).*

*Article 11, consisting of Sections R3-2-1101 through R3-2-1109, recodified from Article 1, Sections R3-2-101 through R3-2-109 (Supp. 97-1).*

## Section

R3-2-1101.	Expired
R3-2-1102.	Expired
R3-2-1103.	Expired
R3-2-1104.	Expired
R3-2-1105.	Expired
R3-2-1106.	Expired
R3-2-1107.	Expired
R3-2-1108.	Expired
R3-2-1109.	Expired

**ARTICLE 1. GENERAL PROVISIONS****R3-2-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, game animals, furbearing and wildlife mammals, and poultry and other birds.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

“Breeding swine” means any member of the family Suidae having the potential to procreate, and includes gilts, sows, and boars.

“Cervidae” means the family of cervids that includes, but is not limited to, deer, moose, elk, reindeer, and caribou.

“Dairy cattle” means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains a restricted feeding pen, and is maintained for

finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Health certificate” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

“Permit number” or “permit” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of R3-2-607 and allows the regulated movement of certain animals into Arizona.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

#### **Historical Note**

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

#### **R3-2-102. Licensing Time-frames**

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
  1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
  2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
  3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
  1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the

additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.

2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

#### **Historical Note**

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4).

#### **R3-2-103. Recodified**

#### **Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

#### **R3-2-104. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

#### **R3-2-105. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

#### **R3-2-106. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

#### **R3-2-107. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

#### **R3-2-108. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

#### **R3-2-109. Recodified**

#### **Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>MEAT AND POULTRY INSPECTION</b>						
License to Slaughter	A.R.S. § 3-2002 A.R.S. § 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081 R3-2-205	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
<b>FEEDING OF ANIMALS</b>						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
<b>DAIRY PRODUCTS AND CONTROL</b>						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Plant Licensing New Renewal	A.R.S. § 3-665	14 14	14 14	14 14	14 14	28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44
<b>LIVESTOCK INSPECTION</b>						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. § 3-1344 A.R.S. § 3-1345	14	14	14	14	28
<b>EGG PRODUCTS AND CONTROL</b>						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
<b>AQUACULTURE</b>						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 R3-2-1008	14	14	30	14	44

**Historical Note**

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

**ARTICLE 2. MEAT AND POULTRY INSPECTION****R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. “Animal” means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. “Dead animal” means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. “Inedible meat” means:
  - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
  - b. Meat condemned by a federal or state inspector.
4. “Rendering” means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4).  
 Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1).  
 Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

**R3-2-202. Meat and Poultry Inspection; Slaughtering Standards**

All meat and poultry inspection and slaughtering procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2009, except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through 381.225, 390, 391, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html) or purchased from the U.S. Government Online Bookstore at [bookstore.gpo.gov](http://bookstore.gpo.gov).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4).  
 Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1).  
 Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1).  
 Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1).

**R3-2-203. Licenses; Registration; Records**

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
  1. Types of slaughter licenses.

- a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
- b. Exempt slaughter.
  - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
  - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption by using a mobile structure on the property of the animal’s owner, that is not sold or offered for sale.
2. Types of meat licenses.
  - a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker’s own account, as an employee of another person, and is paid a commission.
  - b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
  - c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
  - d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
  - e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
  - f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
  - g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.
- B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:
  1. The name of the applicant and the applicant’s partners, officers or directors of the business, if any;
  2. The business name, mailing address, telephone number, and Social Security number of the applicant;
  3. The exact location of the business, if different from subsection (B)(2).
- C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.
- D. During fiscal year 2013, the fee to obtain or renew a license to slaughter is:

1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
  2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
  3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.
- E.** During fiscal year 2013, the fee to obtain or renew a meat license is:
1. For a broker, \$450.
  2. For exempt processing, \$300.
  3. For a distributor, \$500.
  4. For a jobber, \$450.
  5. For a pet food manufacturer, \$300.
  6. For a processor, \$300.
  7. For meat storage, \$450.
  8. For transportation, \$300.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3).

#### R3-2-204. Official Slaughter Establishment

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
  - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
  - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
  - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
  - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
  - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
  - f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
  - g. A distance of at least three feet from the header rail to the adjacent wall;
  - h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
  - i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
  - j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
- k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
  - l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
  - m. Dressing rails and cooler rails at least 11 feet in height.
2. Calves and sheep.
  - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
  - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
  - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
  - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
  - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
  - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
3. Hogs.
  - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
  - b. A scalding vat and gambreling table, including the platforms, of metal construction;
  - c. A shaving rail to assure that carcasses are cleaned;
  - d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
  - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be

- sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
5. Other edible products departments.
    - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
    - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be coved.
    - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
  6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
  7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
  8. Other inedible products departments.
    - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible offal room, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
    - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
  9. Pens.
    - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
    - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
  10. Drainage
    - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
    - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
      - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
      - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.
    - c. Grease recovery basins shall not mask odors or create a harborage for pests.
  11. Equipment and utensils.
    - a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
    - b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mix-

- ers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
- c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
  - d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
  13. Water supply, wash basins, sterilizing facilities.
    - a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
    - b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.
    - c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
    - d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
  14. Protection against flies, rodents, or other vermin.
    - a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
    - b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

#### **R3-2-205. Requirements for Designation of Rendering Plants to Produce Certified Animal Fat**

##### **A. Certification of animal fat.**

1. The Department shall provide certification of rendering facilities and of animal fats to be exported to foreign countries.
2. Any licensed rendering plant in Arizona may apply in writing to the Department for certification of its plant or of the animal fat produced in the plant.
3. As prescribed in subsection (G)(2), the certificate of animal fat shall state that the animal fat identified has been produced by renderers who exclude carcasses and parts condemned because of disease, and dead animals and materials not originally produced under federal or state inspection.

##### **B. Certification of facilities.**

1. Upon written request from a renderer, an inspection shall be made of the rendering plant to determine the plant's category:
  - a. Category A: No raw materials from diseased carcasses and parts or dead animals are used in the rendering plant.
  - b. Category B: Diseased carcasses and parts and dead animals are processed only in segregated equipment within the plant.
  - c. Category C: Diseased carcasses and parts and dead animals are processed through the plant equipment at a separate time of the day from the production of certified animal fat. Raw materials used in the production of non-certified animal fats shall be segregated from raw material used in producing certified animal fat. Production of certified animal fat shall take place in equipment from which all non-certified material has been removed.



2. The Department shall certify the plant's participation in the certified animal fat program if it finds that the rendering plant meets the following requirements:
  - a. The plant is licensed by the state of Arizona as a rendering plant pursuant to A.R.S. § 3-2081.
  - b. The plant is equipped and staffed to operate in accordance with the procedures designated in this rule.
- C. Processing certified animal fat.
  1. Raw materials used in the production of certified animal fat shall be free from condemned and/or diseased material and shall be derived from products originally produced under federal and state inspection.
  2. The following materials shall be excluded from the production of certified animal fat.
    - a. All carcasses and parts from dead, dying, or diseased animals;
    - b. All meat and meat products not originally inspected by state or federal inspectors;
    - c. All meat and meat products condemned because of disease during state or federal meat and poultry inspection.
  3. Separation of raw materials.
    - a. Raw materials not certified pursuant to subsection (G)(2) for certified animal fat production shall be separated from other material at the plant of origin by storing the raw material in separate marked containers which shall be identified as containing material not approved for use in producing certified animal fat.
    - b. The separation of raw materials as described in subsection (C)(3)(a) shall be maintained at all times including during transportation, storage, and rendering.
- D. Registration and recordkeeping. All persons engaged in the business of buying, selling, storing and exporting certified animal fat shall be registered with the Department and shall maintain records of all transactions in connection with such fats.
- E. Inspection.
  1. Inspectors shall make one or more unannounced inspections a year to ensure that only raw materials certified pursuant to subsection (G)(2) are used in certified animal fat production and that the separation of finished products is maintained.
  2. Rendering plants certified under this rule shall make all premises of the rendering plant including storage and export facilities open to inspection by the Department inspectors during the normal hours of operation.
- F. General.
  1. The inspector shall sign the renderer's certificate verifying the animal fat produced in the plant.
  2. If the renderer's certificate has been suspended or revoked, the renderer shall surrender the certificate upon request of the inspector.
  3. No animal fats shipped into Arizona may be mixed with certified animal fat produced in Arizona unless it is certified by the producing state or the USDA.
  4. A copy of the certificate shall be available for inspection by a representative of the Department during normal business hours.
- G. Certificates of certification.
  1. Certification of facilities

**Exhibit A**

Arizona Department of Agriculture

Date

This is to certify that \_\_\_\_\_  
(Company)

at its plant located at \_\_\_\_\_  
produces animal fat obtained by rendering raw materials  
(free from condemned and/or diseased materials) collected only from sources which process meat products or slaughter animals for edible consumption under Category \_\_\_\_\_ of A.A.C. R3-2-205.

\_\_\_\_\_  
(Inspector)

## 2. Certification of animal fat

**Exhibit B**

This certification is for \_\_\_\_\_ pounds  
(Weight)  
of rendered animal produced by renderers who exclude carcasses and parts condemned because of disease and dead animals and materials not originally produced under federal inspection or A.A.C. R3-2-205 during the period \_\_\_\_\_ to \_\_\_\_\_ represented  
(Date) (Date)

by invoice(s) \_\_\_\_\_

(Invoice Numbers)

dated \_\_\_\_\_ sold or shipped to  
(Date)\_\_\_\_\_  
(Firm Name and Address)\_\_\_\_\_  
(Authorized Signature)

This certificate and a copy of the invoice shall follow the lot of animal fat to the export terminal.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

**R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal**

A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.

1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:
  - a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
  - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
  - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
  - a. A rendering or tallow plant;
  - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
  - c. An animal food manufacturing plant;

- d. A landfill regulated by the Arizona Department of Environmental Quality;
  - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
  - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
  4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B.** A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C.** A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
1. Leak-proof,
  2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
  3. Equipped to control insects and odors and prevent the spread of disease, and
  4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D.** Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E.** Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F.** Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
1. Licensed rendering plant, or
  2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

#### R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food

- A.** The following are minimum requirements for animal food manufacturing plants:
1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health

- Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
  3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
  4. All outside windows and doors shall be screened.
  5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
  6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
  7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
  8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.
  9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B.** Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
    - a. The kind of animal,
    - b. The following phrases:
      - i. For pet food only from dead animals,
      - ii. Denatured with \_\_\_\_\_,
    - c. The correct statement of net weight, and
    - d. The name and address of processor or manufacturer.
  2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
  3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
  4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only

and not for human consumption” in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.

5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high “Pet food only,” will not become illegible during handling, storage, or transportation of the container.
- C. Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D. Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-

4). Amended effective July 13, 1995 (Supp. 95-3).

#### R3-2-208. Diseased and Injured Animals

##### A. Diseased animals.

1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified “Not for Human Consumption.”
2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).

##### B. Injured animals. An injured animal may be slaughtered by:

1. The animal’s owner at the owner’s premises if the meat is used solely for consumption by the owner, the owner’s immediate family, or employees. The owner shall keep the animal’s hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
2. An official slaughter establishment, if:
  - a. The animal is inspected by a livestock officer at origin; or
  - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
  - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
3. An exempt slaughterer, if the meat is used solely for consumption by the animal’s owner, the owner’s immediate family or employees, and if:
  - a. The animal’s body temperature is 103° F or less and except for the injury its condition appears normal; and
  - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
  - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-

4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

#### R3-2-209. Exempt Non-mobile Slaughter Establishments

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
  - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
  - b. A distance of at least three feet from the header rail to the adjacent wall;
  - c. A bleeding rail with its top at least 16 feet above the floor; and
  - d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
  - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
  - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.
  - a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
  - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.

- c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
- 7. Protection against flies, rodents, or other vermin.
  - a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
  - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**ARTICLE 3. FEEDING OF ANIMALS****R3-2-301. Operation of Beef Cattle Feedlots**

- A. An operator shall manage a feedlot under the standards prescribed in A.R.S. § 3-1454(A) and R3-2-406.
- B. An operator shall comply with applicable federal, state, and local laws.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-302. Permit to Feed Garbage to Swine; Requirements**

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

- 1. An approved cooker is installed and in operating condition on the premises, and fenced off from all swine.
- 2. A concrete slab, trough, other easily cleanable area, and equipment for feeding garbage is provided.
- 3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
- 4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL****R3-2-401. Definitions**

The following terms apply to this Article:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and the Deputy Administrator of VS to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Biologicals” means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains restricted feeding pens, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Equine infectious anemia” or “EIA” means a viral disease, also known as Swamp Fever, of members of the family equidae.

“Restricted feeding pen” means an enclosed area in a designated feedlot, located at least eight feet from other pens, where cattle are maintained for feeding in a drylot without provisions for pasturing or grazing.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories**

All veterinarians and laboratories performing diagnostic services on animals shall:

- 1. Notify the State Veterinarian at (602) 542-4293, within four hours of diagnosing or suspecting any Office of International Epizootics List A disease, Eighth Edition, 1999, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State, chronic wasting disease, or the following List B diseases:

Anthrax  
 Aujeszky's disease  
 Babesiosis  
 Bovine brucellosis  
 Bovine spongiform encephalopathy  
 Bovine tuberculosis  
 Caprine and ovine brucellosis  
 Contagious caprine pleuropneumonia  
 Contagious equine metritis  
 Dourine  
 Enterovirus encephalomyelitis  
 Epizootic lymphangitis  
 Equine infectious anaemia  
 Equine piroplasmiasis  
 Equine viral arteritis  
 Equine viral encephalomyelitis  
 Fowl typhoid  
 Glanders  
 Heartwater  
 Horse pox  
 Infectious haematopoietic necrosis of fish  
 Nairobi sheep disease  
 Ovine epididymitis  
 Paratuberculosis  
 Porcine brucellosis  
 Pullorum disease  
 Q fever  
 Rabies  
 Scrapie

Screwworm  
 Spring viraemia of carp  
 Surra  
 Theileriosis  
 Trypanosomiasis  
 Viral haemorrhagic septicaemia of fish

2. Notify the State Veterinarian by facsimile at (602) 542-4290 by the end of the month, after diagnosing any Office of International Epizootics List B disease, Eighth Edition, 1999, not specified in subsection (1). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
3. Follow the reporting criteria listed in the National Animal Health Reporting system Manual, January 1, 1999 when making an Epizootics List B notification specified in subsection (2). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-403. Individual Identification of Swine at Market

The owner, or the owner's agent, of an auction licensed by the USDA shall individually identify all swine in Arizona moving through the auction or other concentration point in intrastate and interstate commerce and shall submit the following information by the first of each month, to the State Veterinarian:

1. The name of the owner of the swine;
2. The name of the buyer of the swine;
3. The farm of origin;
4. The individual identification of each swine; and
5. The destination of the swine.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologicals and Semen

- A. Any person importing, manufacturing, selling, or distributing any biological intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall deny approval of the importation, manufacture, sale, or distribution of any biological that will interfere with the State disease control program.
- C. A person shall import semen only from boars in pseudorabies Stage IV or V states.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-405. Depopulation of Animals Infected with a Foreign Disease

When a foreign animal disease is diagnosed, the State Veterinarian shall order the owner to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-406. Disease Control; Feedlots

- A. A restricted feeding pen shall:
  1. Be isolated from all other pens,
  2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
  3. Not share water or feeding facilities accessible to other areas,
  4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
  5. Have a minimum of eight feet between restricted and other pens and facilities, and
  6. Have no common fences or gates with other pens.
- B. An operator may place cattle in a restricted feeding pen as follows:
  1. All cattle, except steers and spayed heifers, shall be branded with an "F", at least two inches in height, on the jaw or adjacent to the tailhead before entering the pen; and
  2. Imported cattle, any age and from any area if accompanied by a permit number and an official health certificate; or
  3. Native Arizona cattle accompanied by an Arizona livestock inspection certificate.
- C. An operator may remove cattle from a restricted feeding pen as follows:
  1. All animals, except steers and spayed heifers, shall be moved only to slaughter, to another designated feedlot, or to an auction market approved by the State Veterinarian or APHIS for sale to slaughter.
  2. A steer or spayed heifer may be moved to any location.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

#### R3-2-407. Equine Infectious Anemia

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by

an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.

**B. Disposal of equine testing positive.**

1. When an Arizona equine tests positive to EIA, the testing laboratory shall immediately notify the State Veterinarian by telephone or fax.
2. The EIA-positive equine shall be quarantined to the premises where tested, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
4. Within 10 days after being branded, the EIA-positive equine shall be:
  - a. Humanely destroyed,
  - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
  - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section is effective, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.

**C.** The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.

**D.** The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-408. Disposition of Livestock Exposed to Rabies**

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part III, Section 5. This material is incorporated by

reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-409. Rabies Vaccines for Animals**

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part II. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-410. Restricted Swine Feedlots**

- A.** The State Veterinarian shall approve restricted swine feedlots for feeding swine from herds not known to be infected with pseudorabies and not tested for pseudorabies before importation if the imported swine meet all requirements in Article 6. Swine moved from a restricted swine feedlot shall be transported directly to a state or federal slaughter facility for immediate slaughter.
- B.** No breeding swine shall be located on or within 1/4 mile of a restricted swine feedlot.
- C.** If pseudorabies is diagnosed in swine at a restricted swine feedlot, the feedlot shall be immediately quarantined and shall not receive any additional shipments of swine until the herd at the feedlot is declared free of pseudorabies or all swine are depopulated from the premises and the premises are cleaned and disinfected.
- D.** A restricted swine feedlot owner or agent shall submit monthly feedlot records to the State Veterinarian, listing the animal's origin, health certificate number, permit number, slaughter destination, and shipping date.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-411. Exhibition Swine**

- A.** In addition to meeting the requirements in Article 6, all imported swine not moved directly to an exhibition in Arizona shall be inspected by a Department livestock officer or inspector within 30 days after entry.
- B.** Exhibit officials shall deny entry to any swine not accompanied by the following documents:

1. Imported swine moved directly to an exhibition. An official health certificate specified in R3-2-606 and an import permit specified in R3-2-607;
  2. Imported swine not moved directly to the exhibition. A Department-issued certificate of inspection of exhibition swine containing the following:
    - a. The name, address, telephone number, and signature of the owner;
    - b. The name of the inspector and the date, time, and location of the inspection;
    - c. The individual identification of the swine, using an earnotch, that conforms to the universal swine-earnotch system, and the premises identification number using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.
  3. Native Arizona swine. A Department-issued certificate of inspection of exhibition swine containing the following:
    - a. The name, address, telephone number, and signature of the owner;
    - b. The name of the inspector and the date, time, and location of the inspection;
    - c. The individual identification of the swine, using an earnotch that conforms to the universal swine-earnotch system, and the premises identification number using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.
- C.** Department-issued certificate of inspection of exhibition swine. The owner shall provide the Department with:
1. Imported swine.
    - a. The certificate of veterinary inspection listing import permit and individual identification of the swine, using an earnotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System; and
    - b. If from a Stage IV state, documentation of a negative pseudorabies test conducted 15 to 30 days after entry.
  2. Native swine.
    - a. A bill of sale listing:
      - i. The name of the seller and buyer;
      - ii. The individual identification of the swine, using an earnotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System; and
      - iii. The date of the sale; or
    - b. Verification that the swine has been raised in Arizona and the individual identification of the swine, using an earnotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000

(Supp. 01-1).

**R3-2-412. Exhibition Sheep and Goats**

An exhibit official shall deny entry to any sheep or goat not individually identified by the following:

1. Imported sheep or goat.
  - a. The health certificate prescribed in R3-2-606 and the animal identification required in R3-2-614, and
  - b. The import permit prescribed in R3-2-607.
2. Native Arizona sheep or goat. A method prescribed in 9 CFR 79.2(a)(2) for a non-neutered sheep or goat, and a neutered sheep or goat more than 18 months of age.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**R3-2-413. Sheep and Goats; Intrastate Movement**

- A.** Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
  1. A slaughter facility,
  2. Custom slaughter, or
  3. A feeding operation before movement to slaughter.
- B.** Subsection (A) does not apply if:
  1. The first point of commingling with animals other than those in the flock of birth is an Arizona auction market, and
  2. The auction market acts as the owner's agent to identify the sheep or goat to the flock of birth.
- C.** This Section is effective January 1, 2003.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3).

**ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM****R3-2-501. Tuberculosis Control and Eradication Procedures**

- A.** Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in the USDA publication, Bovine Tuberculosis Eradication – Uniform Methods and Rules, effective February 3, 1989. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B.** Cattle or bison willfully exposed to quarantined cattle or bison are not eligible for the tuberculosis depopulation indemnity provided in A.R.S. § 3-1745.
- C.** Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in the USDA publication, Tuberculosis Eradication in Cervidae – Uniform Methods and Rules, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

**R3-2-502. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-503. Brucellosis Control and Eradication Procedures**

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in the USDA publication Brucellosis Eradication – Uniform Methods and Rules, effective February 1, 1998. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in the USDA publication, Swine Brucellosis Control/Eradication, State-Federal-Industry – Uniform Methods and Rules, revised February 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- C. Procedures for brucellosis control and eradication in Cervidae not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 1998, and the May 14, 1999 revision. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-504. Pseudorabies Procedures for Eradication**

Procedures for pseudorabies control and eradication in swine shall be as prescribed in the USDA publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, effective January 1, 1999. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-505. Scrapie Procedures for Eradication**

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 54; 66 FR 43963-44003, August 21, 2001. This material is incorporated by reference, does not include any

later amendments or editions, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS****R3-2-601. Definitions**

The following terms apply to this Article:

“Animal” means livestock, feral swine, ratite, bison, water buffalo, oxen, llama, and any exotic mammal not regulated as restricted live wildlife by the Arizona Game and Fish Department.

“Certified copy” means a copy of an official health certificate that includes an additional original signature from the authorizing veterinarian.

“Macaque” means any monkey of the genus *Macaca* in the family *Ceropithecidae*.

“Official eartag” means an identification tag providing unique identification for individual animals. An official eartag that contains or displays an AIN with an 840 prefix must bear the US shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the USDA. The official eartag must be tamper-resistant and have a high retention rate in the animals. Official eartags must adhere to one of the following number systems:

National Uniform Eartagging System,  
Animal identification number (AIN),  
Premises-based number system. The premises-based number system combines an official premises identification number (PIN) with a producer’s livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag, or  
Any other numbering system approved by the Administrator of APHIS for the identification of animals in commerce.

“Specifically approved stockyard” means a stockyard specifically approved by VS and the State Veterinarian for receiving from other states cattle and bison that are not brucellosis-reactor, brucellosis-suspect, or brucellosis-exposed.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-602. Importation Requirements**

- A. All animals and poultry transported or moved into the state of Arizona, unless otherwise specifically provided for in this Article, must be accompanied by:
  1. An official health certificate from the state of origin or a permit number, or both; and



2. The health documentation shall be attached to the waybill or in the possession of the driver of the vehicle or person in charge of the animals.
- B. When a single health certificate and permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall retain the original or a certified copy of the health certificate and permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-603. Importation of Diseased Animals**

- A. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian's Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met.
- B. The owner or owner's agent shall obtain prior permission from the State Veterinarian to ship or move into Arizona any animal from a lot or herd from which an animal shows a suspicious or positive reaction to a test required for admission to Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-604. Livestock Permit Requirements; Exceptions**

- A. Livestock may not enter the state of Arizona unless accompanied by an Arizona permit. Except as discussed in subsection (B), this requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state.
- B. Exceptions:
  1. Horses, mules, and asses; or
  2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-605. Quarantine for Animals Entering Illegally**

- A. Animals entering the state without a valid health certificate or permit number, or both if required, or in violation of any Section under 3 A.A.C. 2, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals under quarantine for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B. The State Veterinarian may request that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame shall be approved in writing by the State Veterinarian.
- C. If the owner or owner's agent fails to comply with a request to return an animal to the state of origin within the time-frame

required in subsection (B), the Department shall require that the animal be immediately gathered at the owner's risk and expense to avoid exposure of Arizona animals. The owner shall pay the expenses no later than five days after receipt of the bill, or an auction of sufficient livestock to pay the just expenses shall be held within 10 days at a livestock auction market. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-606. Health Certificate**

- A. A health certificate is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:
  1. The name and address of the shipper and receiver;
  2. The origin of the animal;
  3. The animal's final destination;
  4. Cattle.
    - a. The number of animals covered by the health certificate, an accurate description and, except for steers, spayed heifers, or "F" branded heifers consigned to a designated feedlot identified by brand, one of the following individual identifications:
      - i. The official eartag number that, for dairy cattle, identifies the herd of birth, or
      - ii. The registration tattoo number and the registration brand of a breed association recognized by VS.
    - b. The health status of the animals, including date and result of an inspection, dipping, test, or vaccination required by Arizona;
    - c. The method of transportation; and
    - d. For bulls subject to testing under R3-2-612(J), a statement that the bulls:
      - i. Tested negative for *Tritrichomonas foetus* within one month prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart; and
      - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
  5. Swine.
    - a. Evidence that the swine have been inspected by the veterinarian issuing the health certificate within 10 days before the shipment,
    - b. A statement that:
      - i. The swine have never been fed garbage, and
      - ii. The swine have not been vaccinated for pseudorabies;
    - c. Except for feeder swine consigned to a restricted swine feedlot:
      - i. A list of the individual permanent identification for each exhibition swine, using an ear notch that conforms to the universal swine-ear notch system or for each commercial swine, using other individual identification, and the premises identification using a tattoo or producer-

- furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;
- ii. The validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd;
  - iii. The pseudorabies status of the state of origin; and
  - iv. The pseudorabies qualified negative herd number, if applicable;
- d. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to an exhibition, and swine from a farm of origin in a state recognized by APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival at destination and kept separate and apart from all other swine until tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry into Arizona; and
  - e. Feeder swine consigned to a restricted swine feedlot shall be identified by premises of origin using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;
6. Sheep and goats.
    - a. Individual identification prescribed in R3-2-614;
    - b. A statement that:
      - i. The sheep or goats are not infected with blue-tongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock;
      - ii. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis; and
    - c. A statement that the sheep or goat test negative for *Brucella ovis* if a test is required by R3-2-614(B); and
  7. Equine.
    - a. An accurate identification for each equine covered by the health certificate including age, sex, breed, color, name, brand, tattoo, scars, and distinctive markings; and
    - b. A statement that the equine has a negative test for EIA, as required in R3-2-615, including:
      - i. The date and results of the test;
      - ii. The name of the testing laboratory; and
      - iii. The laboratory accession number.
- B. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate void. Uncertified photocopies of health certificates are invalid.
  - C. The veterinarian issuing a health certificate shall certify that the animals shown on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure.
  - D. An accredited veterinarian shall inspect animals for entry into the state.
  - E. The Director may limit the period for which a health certificate is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is

January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

#### R3-2-607. Permit Number

- A. A permit number may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293. Any person applying for a permit number shall provide the following information:
  1. The name and address of the shipper and receiver;
  2. The number and kind of animals;
  3. The origin of shipment;
  4. The shipment's final destination;
  5. The method of transportation; and
  6. Any other information required by the State Veterinarian.
- B. A permit number is valid for 15 calendar days from the date of issuance unless otherwise specified.
- C. A permit number shall be issued if the animals listed on the permit are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue a permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The permit number issued shall be affixed or written on the health certificate, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. \_\_\_\_\_" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant a permit number to any person who repeatedly commits the following:
  1. Giving false information concerning a permit number for transportation of animals,
  2. Failing to fulfill the conditions of a permit number, or
  3. Failing to obtain a permit number.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-608. Consignment of Animals

The owner, or owner's agent, of an animal transported or moved into Arizona, except an exhibition or show animal, shall consign the animal to or place it in the care of an Arizona resident or an entity authorized to do business in Arizona.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

#### R3-2-609. Diversion; Prohibitions

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the health certificate and permit, if required, without first obtaining permission from the State Veterinarian.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-610. Tests; Official Confirmation**

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-611. Transporter Duties**

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess a valid health certificate under R3-2-606, and a permit number issued by the State Veterinarian, if required by R3-2-607. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single health certificate or permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a certified copy of the health certificate containing the permit number, if required.
- B. The owner of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners and operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements, Department and Arizona Commerce Commission rules, and Arizona statutes in the humane transport of animals into, within, or through the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-612. Importation of Cattle and Bison**

- A. The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 and the following conditions:
  1. Pay the expenses incurred to quarantine, test, and retest the imported cattle or bison or return them to the state of origin.
  2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies an official eartag to each animal.
- B. Arizona shall not accept:
  1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
    - a. Steers and spayed females, and
    - b. Animals shipped directly for immediate slaughter to an official state or federal slaughter establishment;

2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
  3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
  4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
  5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- C. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. The owner or owner's agent shall ensure that an official calfhood vaccinate is tested negative for brucellosis within 30 days before entering Arizona if the official calfhood vaccinate is:
    - a. 18 months or older,
    - b. Cutting the first set of permanent incisors, or
    - c. Parturient or postparturient.
  2. The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
    - a. An official state or federal slaughter establishment for immediate slaughter,
    - b. Another designated feedlot, or
    - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
  3. If cattle or bison originate from a Certified Brucellosis-Free Herd and the herd certification number is documented on the health certificate and import permit, no brucellosis test is required.
  4. If native ranch cattle are from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required as long as:
    - a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the official eartag numbers are listed on a health certificate; or
    - b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.
  5. Health and brand inspection certificates issued for the movement shall be forwarded to the State Veterinarian in Arizona within two weeks of issue.
  6. The owner or owner's agent:
    - a. Shall ensure that beef breeding cattle or breeding bison from a Class A State remain under import quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.

- b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
    - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
  - 7. The owner or owner's agent:
    - a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under import quarantine from the destination listed on the import permit and health certificate.
    - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under import quarantine and are not moved from the destination listed on the import permit and health certificate.
    - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
  - 8. Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (C)(1) or (C)(2) and not meeting the criteria of subsection (C)(3) may be imported without a brucellosis test if moved to a specifically approved stockyard and tested before sale or movement from the stockyard. The owner or owner's agent shall not commingle these cattle or bison with other cattle or bison until these cattle or bison are tested and found to be brucellosis negative.
  - 9. Within seven days after importation, the owner or owner's agent shall ensure that the individual official eartag identification for imported dairy cattle is the same as that listed on the health certificate and. The owner or the owner's agent shall report any discrepancies between the official eartag and the health certificate to the State Veterinarian. Any dairy cattle shipped into Arizona not documented on the health certificate shall be tested for brucellosis and tuberculosis by the receiver within one week of arrival.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.
- 1. Before entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
  - 2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. The test shall be performed again on breeding cattle and breeding bison 30 days after calving, unless the animals were consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
- E.** Except for the following, all female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, properly identified, certified, and legibly tattooed:
- 1. Show cattle for exhibition,
  - 2. Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian,
  - 3. Cattle from a brucellosis-free state or country with permission of the State Veterinarian,
  - 4. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
  - 5. Cattle consigned for feeding purposes to a designated feedlot under import permit.
- F.** When imported breeding cattle, breeding bison, or dairy cattle under import quarantine and isolation are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine. If market cattle identification testing for brucellosis is conducted at the auction, the owner or owner's agent shall ensure that the cattle or bison are tested before the sale. The new owner shall segregate the cattle or bison and retest for brucellosis 45 to 120 days after the animals entered the state.
- G.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
- 1. No tuberculosis test is required for:
    - a. Beef breeding cattle, breeding bison, or dairy cattle from an accredited herd if the herd accreditation number is documented on the health certificate and import permit;
    - b. Native commercial and purebred beef breeding cattle from an Accredited-Free State if its accredited-free status is documented on the health certificate; and
    - c. Steers and spayed heifers.
  - 2. Unless from an accredited herd, prescribed in subsection (G)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle test negative for tuberculosis within 60 days before entry into Arizona.
- H.** Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.
- 1. Before entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, incorporated by reference in subsection (D)(1).
  - 2. Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
  - 3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
  - 4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully

implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:

- a. Tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication – Uniform Methods and Rules within 60 days before entry into the United States, or
  - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
  6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under import quarantine and isolation until retested negative for tuberculosis in accordance with the Bovine Tuberculosis Eradication - Uniform Methods and Rules. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an “F” adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the “F” brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.

**I. Bovine scabies requirements.**

1. The owner or owner’s agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under permit number and seal for immediate slaughter at an official state or federal slaughter establishment.
2. The owner or owner’s agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, January 1, 2007, edition, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals

are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise a veterinarian’s examination and certification shall be sufficient.

**J. Trichomoniasis requirements for bulls imported into Arizona from other states.**

1. The owner or owner’s agent shall ensure bulls:
  - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart, except for bulls:
    - i. Less than one year of age,
    - ii. Consigned directly to a state or federal licensed slaughter facility,
    - iii. Consigned directly to a dairy,
    - iv. Consigned directly to an exhibition or rodeo,
    - v. Consigned directly to a licensed feedlot for castration on arrival,
    - vi. Branded with an “F” adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
  - b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-613. Swine**

- A.** The owner of swine entering Arizona, or the owner’s agent, shall comply with the requirements of Article 6 and the following conditions:
  1. Pay the expenses incurred to quarantine, test, and retest the imported swine; and
  2. Obtain an official health certificate specified in R3-2-606 and permit specified in R3-2-607.
- B.** Brucellosis test requirements. Breeding swine imported into Arizona from other states shall:
  1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
  2. Test negative for brucellosis within 30 days before entry.
- C.** Pseudorabies test requirements. Swine imported into Arizona from other states shall:
  1. Be shipped directly from:
    - a. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state,
    - b. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage III state if the swine are:
      - i. Consigned directly to a terminal exhibition of only neutered swine,

- ii. Tested negative within 15 days before entry, and
  - iii. Transported directly to a state or federally inspected slaughter facility immediately after the exhibition in a truck sealed by the State Veterinarian or agent;
  - c. A pseudorabies monitored feeder pig herd in a pseudorabies Stage II or Stage III state if the swine is consigned to a restricted swine feedlot; or
  - d. A sale in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state if all swine entered in the sale are from a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state.
2. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to exhibition, and swine from a farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage V state, remain under import quarantine and isolation at the location specified on the import permit and health certificate, with the following restrictions, until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry:
- a. The isolation pen shall be at least 200 feet from straying pigs, other livestock, pets, or working dogs, and not be accessible to normal traffic flow;
  - b. Equipment, tools, and implements shall not be moved from an isolation pen and used at another pen;
  - c. Workers shall disinfect their shoes and clothing before working with other livestock or the main herd; and
  - d. The distance between an isolation pen barrier and another swine pen barrier shall be at least 200 feet and the isolation pen shall be double-fenced to prevent exposure to accidental strays.
  - e. Imported quarantined swine testing positive after entry shall be shipped directly to a state or federal slaughter establishment within 15 days after the positive identification and shall be accompanied by a USDA-VS Form 1-27. The remainder of exposed animals shall be quarantined until the herd is declared free of the disease, or all exposed animals are depopulated and the premises cleaned and disinfected.
3. If swine move directly to exhibition from a herd in a Stage IV state, and remain in the state, the swine shall be held under import quarantine at a location disclosed by the exhibitor. The exhibitor shall disclose the location of the quarantine facility to the Department within three days of the end of the exhibition. The swine shall be quarantined according to the restrictions identified in subsections (C)(2)(a) through (C)(2)(e) until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry into the state.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

#### R3-2-614. Sheep and Goats

- A. The owner of a sheep or goat entering Arizona, or the owner's agent, shall comply with the requirements of:
- 1. Article 6 and pay the expenses incurred to quarantine, test, and retest the sheep or goat; and
  - 2. Animal identification prescribed in 9 CFR 79, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

#### R3-2-615. Equine Importation

- A. Except for R3-2-607, an equine may enter the state as prescribed in R3-2-602 through R3-2-611.
- B. A person shall not import an equine with fistulous withers or poll evil.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), be tested negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

#### R3-2-616. Cats and Dogs

A dog or cat shall be accompanied by a health certificate that documents the animal is currently vaccinated against rabies according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

#### R3-2-617. Poultry

The Department has no entry requirements on poultry provided the poultry appear healthy, do not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and are

accompanied by a health certificate or Form 9-3 from the National Poultry Improvement Program.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-618. Psittacine Birds**

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a health certificate issued by a veterinarian within 30 days of entry, certifying:
  1. The bird is not infected with the agent that causes avian chlamydiosis, and
  2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The health certificate shall accompany the psittacine bird at the time of entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-619. Repealed**

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-620. Zoo Animals**

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official health certificate, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of an animal in a "Petting Zoo" shall have the animal tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-621. Non-restricted Live Wildlife Cervidae**

The owner of non-restricted live wildlife Cervidae entering Arizona, or the owner's agent, shall comply with the requirements in Article 6 and the following conditions:

1. Pay the expenses incurred to quarantine, test, and retest the imported non-restricted live wildlife cervids;
2. Ensure that each non-restricted live wildlife cervid is individually identified on the health certificate by an official eartag number;

3. Tuberculosis testing.
  - a. Except for non-restricted live wildlife Cervidae from a tuberculosis accredited-free herd, a tuberculosis qualified herd, or a tuberculosis monitored herd, ensure that non-restricted live wildlife Cervidae are tested negative twice for tuberculosis no less than 90 days apart with the second test conducted within 90 days before the date of entry;
  - b. Test non-restrictive live wildlife Cervidae originating from a tuberculosis qualified or monitored herd for tuberculosis once within 90 days before entry.
4. Brucellosis testing.
  - a. Certified brucellosis-free cervid herd. No testing required.
  - b. Brucellosis-monitored cervid herd. All sexually intact non-restricted live wildlife Cervidae six months of age or older shall be tested negative for brucellosis within 90 days before entry.
  - c. Other cervid herds. Sexually intact non-restricted live wildlife Cervidae six months of age or older shall be tested negative for brucellosis within 30 days before entry. A retest shall be conducted within 90 days after entry.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-622. Monkeys**

The owner or owner's agent of macaque entering Arizona shall comply with Article 6, except for R3-2-607, and the following conditions:

1. Each macaque shall be tested negative for Simian Herpes B virus within 30 days before entry into Arizona. If the macaque is less than two months of age, it shall be accompanied by a document issued and signed by an accredited veterinarian in the state of origin attesting that the biologic maternal parent of the macaque tested negative for Simian Herpes B virus not more than 30 days before the macaque's arrival in Arizona.
2. Each macaque shall be tested negative for tuberculosis within 30 days before movement into Arizona. Animals less than three months of age shall be accompanied by a health certificate with a statement attesting that no macaques housed within a circumference of 300 ft. from the macaque being shipped have exhibited symptoms of or tested positive for tuberculosis within 90 days.
3. Each macaque shall be permanently and uniquely identified with either a tattoo or microchip and the identification noted clearly on the health certificate and any accompanying document.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**ARTICLE 7. LIVESTOCK INSPECTION**

**R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent is:

1. Moving cattle out-of-state;
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- B.** A Division employee shall inspect cattle at a feedlot or dairy if the cattle are being shipped for custom slaughter.
- C.** The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- D.** During fiscal year 2013, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

#### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3).

### R3-2-702. Livestock Self-inspection

#### A. Definitions.

“Description” means sex, breed, color, and markings, as applicable to the type of livestock.

“Exhibition” means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a youth livestock organization, including 4-H and FFA, to display an animal raised by the youth in a judged competition.

“Identification” means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.

“Livestock” means cattle, sheep, and goats.

“Range” means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

“Range cattle” means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

#### B. Application.

1. An owner of five or fewer head of livestock shall call the Department at (602) 542-6407 to request a self-inspection certificate. The owner shall provide answers to the questions in subsections (B)(2)(a) through (B)(2)(f) to a Department employee before a certificate will be provided.
2. An owner of six or more head of livestock and an owner or operator of a dairy or feedlot shall request a book of

self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:

- a. Name, mailing address, physical address, telephone number, and fax;
  - b. Name of ranch, dairy, or business and type of operation;
  - c. Social security or business tax identification number;
  - d. Whether the applicant has been convicted of a felony under A.R.S. Title 3 within the past three years, and if so, the case number, court, charge, and sentence;
  - e. Recorded brand and brand location;
  - f. Individual designated to sign self-inspection certificates, if applicable; and
  - g. Signature and date.
3. The holder of a self-inspection book shall advise the Department by phone within 30 days of any change to the information provided on an application form.
  4. The holder of a self-inspection book shall renew registration with the Department every two years from the date the initial or renewal application form is signed.
- C. Self-inspection certificate.**
1. An owner, agent, or operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
    - a. Name, address, telephone number, and signature of the owner or agent;
    - b. Date of the shipment or transfer of ownership;
    - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
    - d. Name of transporter;
    - e. Number, description, and identification of each sheep or goat as prescribed in R3-2-413;
    - f. Number, description, and identification of each calf, cow, heifer, steer, or bull and back tag numbers of culled dairy cattle;
    - g. Brand number and expiration date, if available, and brand location;
    - h. Name, address, and telephone number of buyer or agent, and signature if present at sale;
    - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238; and
    - j. Number of head of livestock for which an inspection fee is payable under A.R.S. § 3-1337(D).
  2. The owner or owner's agent of livestock or the owner or operator of a dairy or feedlot shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
    - a. One copy and any fees that are owed under subsections (C)(1)(i) and (C)(1)(j) shall be sent to the Department within 10 days after the end of the month in which the livestock are moved or ownership is transferred;
    - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or



- c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent; and one copy shall be retained by the seller.
  3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner, agent, or operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are issued or voided.
  4. An owner, agent, or operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner, agent, or operator shall complete a new certificate.
  5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
  6. Upon request, unused certificates shall be returned to the Department by the owner, agent, or operator. If a commercial operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner, agent, or operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.
  - D. Sale of livestock.** A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
  - E. Feedlot receiving form.**
    1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
      - a. Name of feedlot and location;
      - b. Month and year for which report is made;
      - c. Number of cattle received, date received, and name and address of owner;
      - d. Description of the cattle;
      - e. If not Arizona native cattle, the import permit and health certificate numbers;
      - f. If native Arizona cattle, self-inspection form number or Department inspection certificate number; and
      - g. Pen number to which cattle are initially assigned.
    2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
  - F. Quarantine.** Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
  - G. Violations.** The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).
1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall call the Department at (602) 542-6407 to request a seasonal self-inspection certificate. The applicant shall provide the answers to the following questions, as applicable:
    - a. Name, mailing address, physical address if different from mailing address, telephone number, and fax;
    - b. Name of 4-H or FFA group, and group leader;
    - c. Social security number;
    - d. Description and identification of the animal;
    - e. Permit number and health certificate number for an animal imported from another state; and
    - f. Name of seller and self-inspection certificate number for an animal purchased from an Arizona seller.
  2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
  3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever an animal subject to seasonal self-inspection is moved or ownership is transferred:
    - a. Name, address, telephone number, and signature;
    - b. Date of movement;
    - c. Name of exhibition and location;
    - d. Final disposition of the animal (sale, death, or retention) and date of occurrence; and
    - e. If the animal is sold, name of purchaser (person or slaughter plant).
  4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the animal or at the end of the show season if the animal is retained.
- B. Exhibition swine.** The requirements prescribed at R3-2-411 apply to exhibition swine.

**Historical Note**

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-704. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-705. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-706. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-703. Seasonal Self-inspection Certificate****A. Exhibition cattle, sheep, and goats.**

**R3-2-707. Ownership and Hauling Certificate for Equines; Fees**

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

**R3-2-708. Equine Rescue Facility Registration**

- A.** “Arizona Equine Rescue Standards” means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at [http://www.aaep.org/pdfs/rescue\\_retirement\\_guidelines.pdf](http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf). The American Association of Equine Practitioners is located at 4075 Iron Works Parkway, Lexington, Kentucky 40511.
- B.** An equine rescue facility shall pay the annual registration fee and file the following documents with the Department’s Animal Services Division for the facility to be included on the Department’s registry of equine rescue facilities:
1. An application form containing the facility’s name, address, and contact person and the contact person’s phone number.
  2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility’s current status as a nonprofit corporation in good standing in this state.
  3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards’ veterinary checklist.
- C.** Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D.** The annual registration fee is \$75.
- E.** A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F.** The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2).

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL****R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

“3-A Sanitary Standards” and “3-A Accepted Practices,” as published by the International Association for Food Protection, amended May 31, 2002, means the criteria for cleanability of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

“C-I-P” means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

“Converted” means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

“Fluid trade product” means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates milk, lowfat milk, chocolate milk, half and half, or cream.

“Food establishment” means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

“Frozen desserts mix” or “mix” means any frozen dessert before being frozen.

“Grade A raw milk” means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

“Parlor” and “milk room” mean the facilities used for the production of Grade A raw milk for pasteurization.

“Plant” means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

“Manufacturing plant” means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

“Handling plant” means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

“Plate line” means a horizontal structural member, such as a timber, that provides the bearing and anchorage for the trusses of a roof or the rafters.

“PMO” means the Grade A Pasteurized Milk Ordinance – 1978 Recommendations of the United States Public Health Service/Food and Drug Administration, 2005 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the Department of Health and Human Services, Public Health Services, Food and Drug Administration, Dairy and Egg Branch (HFS-316), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

“Retail food store” means any establishment offering packaged or bulk goods for human consumption for retail sale.

**Historical Note**

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R.

889, effective May 3, 2008 (Supp. 08-1).

### **R3-2-802. Milk and Milk Products Standards**

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

#### **Historical Note**

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4).

### **R3-2-803. Milk and Milk Products Labeling**

- A.** The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B.** The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2002. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.
- C.** The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D.** If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer's or processor's like product, the manufacturer or processor shall include the statement "Manufactured or Processed at (name and address of plant or code number or letter)" on the carton or closure. The carton or closure may also contain the statement, "Distributed by: (name of person or firm)."
- E.** Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
  1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
  2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
    - a. The use does not present a public health issue, and
    - b. The information on the cartons and closures is not misleading.

#### **Historical Note**

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

### **R3-2-804. Trade Products**

- A.** Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B.** Advertising, display, and sale:
  1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
  2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
    - a. "\_\_\_\_\_ served here  
(brand or common name of trade product)  
instead of \_\_\_\_\_."  
(common name of dairy product)
    - b. "Nondairy products served here."
  3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C.** Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
  1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
  2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
  3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
  4. Any trade product produced outside the state and labeled as prescribed in R3-2-802, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

#### **Historical Note**

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4).

### **R3-2-805. Grade A Raw Milk For Consumption**

- A.** All cattle from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative ring tests for brucellosis, or both, as determined by the State Veterinarian.

- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803.

#### Historical Note

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4).

### R3-2-806. Parlors and Milk Rooms

#### A. Construction Plans.

- 1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
- 2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
- 3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.

#### B. Site.

- 1. The parlor and milk room shall be located in a place free from contaminated surroundings.
- 2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.

#### C. Surroundings.

- 1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade. A minimum 3% slope shall be maintained in unpaved corrals where the available space for each animal is 400 square feet or less but may be reduced proportionately to 1 1/2% slope if 800 square feet or more is provided for each animal.
- 2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed at least six inches high and six inches wide and sloped to a paved drain area. The paved area shall provide access to permanent feed racks or mangers and to water troughs. Water troughs shall be provided with an apron of concrete or equivalent at least 10 feet wide at the drinking area. The cow standing platform at permanent feed racks shall be paved with concrete or equivalent for at least 10 feet back of the stanchion line. The stanchion line shall have a curb at least one foot in height.

- D. Floor level elevations of all structures shall be at least 15 inches above surrounding ground level and shall carry drainage 50 feet from the parlor and at least 100 feet from the milk room. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.

#### E. Milk room.

- 1. The milk room shall not be more than 15 feet from the parlor and may be located under the same roof (extended) as the parlor. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sani-

tization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be available in each room. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.

- 2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress and have ceiling or roof ventilation. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
  - a. A 3-foot clearance is allowed for the walkway;
  - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
  - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
  - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls or stationary doors of the passageway.

- 3. Floors.
  - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove. Concrete floors built on soils other than sandy loams shall have a sand or rock cushion at least six inches deep.
  - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall have leakproof connections and meet all applicable plumbing codes.

#### 4. Walls and ceilings.

- a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
- b. The main ceiling height shall be at least nine feet above the floor and not less than the height of the farm tank plus two feet. New or extensively altered ceiling shall be at least three feet above the tank. The ceiling may follow the rafters to the plate line which shall be at least 7 feet 3 inches above the floor.

#### 5. Doors and windows.

- a. Each room of the milk room shall have at least one glass or other light-transmitting material. The total window area in each room shall be equivalent to at least 1/10 of the floor area. All opening windows shall have at least 16-inch mesh screen.

- b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
    - c. All working areas in the milk room shall contain at least 30 foot-candles of lighting.
  6. Ventilation. At least two wall ventilators shall be installed horizontally not more than 10 inches nor less than four inches above the floor in each milk room. The wall ventilators shall provide openings equivalent to 2% of the floor areas. Wall-vent openings shall be equipped with metal framed insect screens. The milk room shall contain ceiling vents. In the absence of forced draft ventilation, the ceiling vents shall be shafted to a roof peak vent that is at least 12 inches in diameter to ventilate the room and exclude dust, rain, birds, insects, and trash. Ceiling vents shall provide high ventilation equivalent to an opening of 2% or more of the floor area. Ceiling vents shall not be installed directly above bulk milk storage tanks. Oil or gas water heaters shall be vented outside above the roof edge.
  7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
  8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.
- F. Parlor.
  1. Floors.
    - a. The floors, curbs and quarters shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise at least 1 1/2 inches per 10 feet toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope at least 1 1/2 inches toward the floor gutter.
    - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
    - c. The cow standing platform litter alley, feed alley, and gutter shall be given a true, even surface. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping. Concrete floors built on soils other than sandy loams shall have a sand or rock cushion at least six inches deep.
  2. Walls. All walls shall be constructed of a light-colored, impervious material that shall extend at least four feet above the ground floor. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent drippage.
  3. Plate line. The plate line in the floor level parlor shall be at least 7 feet 3 inches above the floor. In elevated stall parlors, the plate line shall be at least 6 feet 6 inches above the cow standing platform.
  4. Superstructure. The exposed superstructure of the parlor or ceiling shall be constructed of smooth material. The roof sheathing in an exposed superstructure shall be applied directly to the rafters.
  5. Stalls. The cow standing platform and floor level parlors shall be at least three feet wide for each cow and shall be at least four feet 10 inches and not more than six feet from the stanchion line to the gutter, depending on the size of the cattle and the design of the manger. If stanchions are not used, the cow standing platform shall be at least 7 feet in length. The cow stall in a tandem elevated stall shall be eight feet in length. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
  6. Light and airspace. The parlor shall have at least 400 cubic feet of air space for each stall. Window space, with or without glass, shall be equivalent to at least 6% of the floor area. Light-transmitting material in the roof may be substituted for window spaces. Artificial light shall be at least 30 footcandles at the floor level and located to minimize shadows in the milking area.
  7. Alleys.
    - a. The litter alley, exclusive of gutter, shall be at least 4 feet 9 inches wide behind a single string of cows. In a 2-string head-out parlor, the litter alley shall be at least eight feet wide between gutters.
    - b. In a floor level parlor, the feed alley in single and 2-single head-out types, shall be at least 5 feet 9 inches wide between stanchion line and wall. In 2-string head-in parlors, there shall be at least 10 feet between stanchions.
    - c. The milking alley in the 2-string tandem elevated stall parlor shall be at least eight feet wide but may be reduced to five feet at the narrowest point if automatic feeders are installed and used. The width of the milking alley in the 2-string herringbone parlor may be reduced to five feet at the narrowest point.
    - d. In the single-string elevated parlor, the milking alley shall be at least eight feet wide.
  8. Gutters.
    - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
    - b. Gutters in the floor level parlor may be either trench or step-off. The gutter shall be at least 14 inches wide and two inches deep at the cow standing platform. The gutter floor shall slope down away from the cow standing platform 1/2 inch across its width. The gutter shall have a uniform depth for its entire length.
    - c. The gutters in an elevated stall parlor shall be grate-covered in the stall and trenched along the outside wall. The stall gutter shall be located to catch defecation of cows in the stall. The stall gutter shall be at least 500 square inches in area and at least 20 inches wide and four inches deep. A herringbone parlor may have the stall gutter width reduced to 14 inches provided a 500 square inch area containing the animal is maintained. The wall gutter shall be at least eight inches wide and three inches deep and the

bottom may be rounded. A trench gutter may be eliminated in an exit alley if the alley is curbed and sloped to drain.

- d. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.

9. Curbs.

- a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
- b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.

10. Stanchions.

- a. The stanchion shall be metal or other impervious, easily cleanable material. The lower horizontal line of the stanchion shall be at least two inches above the curb and at least 14 inches above the floor if no curb is provided.
- b. In floor level parlors, the manger shall have:
  - i. A width of at least 27 inches with a back wall at least 12 inches above the floor;
  - ii. Rounded corners;
  - iii. The low point of the manger at least eight inches out from the stanchion line and three inches above the floor; and
  - iv. A lengthwise slope of at least 1 1/2 inches per 10 feet toward a drain or gutter.
- c. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.

11. Ventilation.

- a. Ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
- b. Continuous open 18-inch ridge vents that rise at least six inches above the roof area are permitted. Any ridge vent continuing over the feed room shall be tightly screened.
- c. If a stack vent is used, single string parlors shall have a 12-inch diameter opening, and multi-string parlors shall have a 14-inch diameter opening with not more than 10 feet between vent and wall, and vent and vent.
- d. A flat ceiling shall have at least two vents, two feet by two feet or equivalent, shafted to a roof peak vent with not less than a 12-inch opening. The ceiling vents may be located directly over the cow standing platform or the milking pit. The vents shall be located not more than 10 feet between vent and wall, and vent and vent.

- 12. The lower half of the parlor doors shall be covered on both sides with corrosion-resistant metal.

**G.** Roof drainage from parlors, milk rooms, or shelters shall not drain into a corral unless the corral is paved and properly drained.

**H.** If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete

or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.

- I.** Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.

**Historical Note**

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4).

**R3-2-807. Frozen Dessert Plant and Processing Standards**

**A.** Plant and Processing Standards.

1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
4. Buildings.
  - a. The building exterior and interior shall be kept clean and in good repair.
  - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing wherever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.
  - c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
    - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
    - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing

- room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
- iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
  - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
  - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
  - vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
  - vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
  - viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
  - d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
  - e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients.
- However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
- f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
  - g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
  - h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
    - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 footcandles of light on all working surfaces;
    - ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
    - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
  - i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
  - j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
  - k. Approval of plans. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
- a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacterio-

- logical examination shall be made of the water supply at least once every six months by a bacteriologist to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
- b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
6. Equipment and utensils.
    - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
    - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
    - c. Pasteurizing equipment shall meet the standards prescribed in 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the thermometer shall be checked weekly and the date and name of the person responsible for the weekly accuracy check shall be recorded.
    - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
    - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
  7. Cleaning and sanitizing.
    - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with a commercial vacuum cleaner or other means and the material obtained shall be burned or disposed of so that any insects are destroyed and milk products and frozen desserts will not be contaminated. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
    - b. Equipment shall be sanitized by using one of the following methods:
      - i. Using 180° F water for at least two minutes.
      - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
      - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
      - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
  8. Pasteurization and cooling.
    - a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.



- b. Frozen desserts mix shall be pasteurized by heating every particle to:
    - i. 155° F for 30 minutes,
    - ii. 160° F for 15 minutes,
    - iii. 165° F for 10 minutes,
    - iv. 175° F for 25 seconds,
    - v. 180° F for 15 seconds,
    - vi. 200° F for three seconds, or
    - vii. 210° F with no holding time.
  - c. High-temperature-short-time pasteurizers shall have the thermal limit controller set and sealed so that forward flow of the product cannot start unless the temperature at the controller sensor is above the required temperature and forward flow of the product cannot continue during descending temperatures if the temperature is below the required temperature. The seal shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed so that no product can bypass the controller sensor. The controller sensor shall not be removed from its proper position during the pasteurization process.
  - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
    - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
    - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
9. Storage.
- a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
  - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
  - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
  - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
  - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
12. Packaging and containers.
- a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.
  - b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
    - i. Rinsed immediately after emptying,
    - ii. Cleaned upon return to the plant, and
    - iii. Protected from contamination during storage.
  - c. Metal cans and containers shall be free from rust and corrosion.
  - d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
  - e. Single-service containers shall not be reused.
- B. Personnel.**
- 1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands.

Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.

2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

**C. Quality standards.**

1. Milk products used in the manufacture of frozen desserts shall meet the following standards:

**Product      Standard Plate Count Not to Exceed**

Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

**Bacterial Standards      Not to Exceed**

Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast	50 per gram
Mold	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

**D. Labeling.**

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
  - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
  - b. The name and address of the frozen dessert manufacturer.

**E. License suspension.** The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count,

coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

**Historical Note**

Adopted effective December 7, 1976 (Supp. 76-5).

Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).

Amended effective December 2, 1998 (Supp. 98-4).

**R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes**

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sterilization standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.
3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

**Historical Note**

Adopted effective May 11, 1977 (Supp. 77-3). Section

R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section

R3-2-808 renumbered to Section R3-2-809; new

Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk**

**A.** All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:

1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.

**B. Enforcement.**

1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
  - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been cor-

- rected and the dairy is in compliance with the procedures established in subsection (A);
- b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
  - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

**Historical Note**

Section R3-2-809 renumbered from R3-2-808 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-810. License Fees**

During fiscal year 2013, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.
3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3).

**ARTICLE 9. EGG AND EGG PRODUCTS CONTROL****R3-2-901. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-701, 3-702, 3-703 and 3-704, the following shall apply to this Article:

“Lot” means any quantity of two or more eggs.

“Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).

“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2008 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

**Historical Note**

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-902. Standards, Grades, and Weight Classes for Shell Eggs**

All standards, grades, and weight classes for shell eggs shall be as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at [www.ams.usda.gov/poultry/standards/index.htm](http://www.ams.usda.gov/poultry/standards/index.htm). “AMS” means Agricultural Marketing Service, United States Department of Agriculture.

**Historical Note**

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102 renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1).

**R3-2-903. Sampling: Schedule and Methods for Evidence**

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(B).
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on the following table. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(B) shall receive a warning notice hold tag.

Minimum Number of Cases and Cartons Comprising a Representative Sample			
Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection <sup>1</sup>
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases

211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case
<sup>1</sup> An inspector shall take 100 eggs from each case for inspection.			

1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
2. When loose eggs are out of the case, the sample shall be based on a carton.
3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

#### Historical Note

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

#### R3-2-904. Quarterly Report Periods

Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

#### Historical Note

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

#### R3-2-905. Inspection Fee Rate

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per

dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).

- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).

#### Historical Note

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new

Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2).

#### R3-2-906. Violations and Penalties

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
1. Category A:
    - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
    - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
    - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
    - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container, unless the eggs are exempt under A.R.S. § 3-715(K);
    - e. Failing to maintain records and reports required by this Article;
    - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
    - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
    - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
    - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products.
    - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B).
    - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).
  2. Category B:
    - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(10); or
    - b. Advertising, representing, or selling out-of-state eggs as local eggs.
  3. Category C:
    - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
    - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower; or

- c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F.
- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is:

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

**Historical Note**

Former Rule 6; Amended effective February 19, 1982. Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-907. Poultry Husbandry; Standards for Production of Eggs**

- A. All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B. All eggs sold in this state produced by hens shall be from hens raised according to the United Egg Producers Animal Husbandry Guidelines. All eggs shall display the United Egg Producers Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C. This rule does not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs and also does not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.

**Historical Note**

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-908. Sanitary Standards; Egg Processing**

All egg producers in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.

**Historical Note**

Former Rule 8; Amended effective October 1, 1979

(Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-909. Repealed****Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

**ARTICLE 10. AQUACULTURE****R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1002. Fees for Licenses; Inspection Authorization and Fees**

- A. License fees are established as follows:
1. Aquaculture facility: \$100 annually.
  2. Fee fishing facility: \$100 annually.
  3. Aquaculture processor: \$100 annually.
  4. Aquaculture transporter: \$100 annually.
  5. Special licenses: \$10 annually.
- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1003. General Licensing Provisions**

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;
  2. The name and address of the applicant;

3. A corporation shall specify the date and state of incorporation;
  4. The principal name of the business, and all other business names that may be used;
  5. The name, mailing address, and telephone number of the applicant's authorized agent;
  6. The street address or legal description of the location of the facility to be licensed; and
  7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B.** The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
- C.** All licenses expire on December 31 for the year issued.
- D.** A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
- E.** To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
- F.** The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
1. The reason for the Department's action; and
  2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.
- G.** A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.
- H.** A licensee shall pay all diagnostic, quarantine, and destruction costs.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

#### **R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility**

- A.** In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
1. Water sources, transmission, and conveyances;
  2. Method used to dispose of tailing waters and solid wastes;
  3. Number and size of ponds, raceways, and tanks, if applicable;
  4. Whether hatchery facilities are included;
  5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B.** An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the

facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:

1. Anticipated benefits from introducing the species;
  2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
  3. Anticipated diseases inherent to introducing the species;
  4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
  5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C.** Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D.** A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E.** An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
  2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F.** The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### **R3-2-1005. Fee Fishing Facility**

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
  - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
  - b. Date of harvest; and
  - c. Number and species of aquatic animals transported from the facility.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### **R3-2-1006. Processor License**

- A.** In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
  2. Method used to dispose of tailing waters and solid wastes;

- B.** A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
1. Each establishment shall have sanitary floors and walls impervious to water.
  2. All outside windows and doors shall be screened.
  3. There shall be a supply of potable water.
  4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1007. Transporter License; Transport; Delivery**

- A.** In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:
1. Designate whether the license is for interstate or intrastate transport, or both;
  2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
  3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B.** A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."
- C.** In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Quantity and size of the aquatic animal being transported;
  4. Genus, species, and common name of the aquatic animal being transported;
  5. Date of shipment; and
  6. Department establishment number.
- D.** A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed in A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1008. Repealed**

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1009. Disease Certification**

- A.** A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
  2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
  3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.

4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.

- B.** The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1010. Importation of Aquatic Animals**

- A.** The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
  2. A transporter license issued under R3-2-1007; and
  3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.
- B.** The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;
  2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
  3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
  4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.
- C.** The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
  4. Origin of the shipment;
  5. Genus, species, and common name of aquatic animals to be imported; and
  6. Quantity and size classification of aquatic animals to be imported.
- D.** An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E.** The Department shall refuse entry to any shipment that does not comply with this rule.

- F. The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 11. EXPIRED**

**R3-2-1101. Expired**

**Historical Note**

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1102. Expired**

**Historical Note**

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1103. Expired**

**Historical Note**

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1104. Expired**

**Historical Note**

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-

1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1105. Expired**

**Historical Note**

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1106. Expired**

**Historical Note**

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1107. Expired**

**Historical Note**

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1108. Expired**

**Historical Note**

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1109. Expired**

**Historical Note**

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).



**TITLE 3. AGRICULTURE**  
**CHAPTER 3. DEPARTMENT OF AGRICULTURE**  
**ENVIRONMENTAL SERVICES DIVISION**

Authority: A.R.S. §§ 3-341 et seq. and 3-3101 et seq.

*Title 3, Chapter 3, Article 1, Section R3-3-101 renumbered from Title 3, Chapter 10, Article 1, Section R3-10-101; Title 3, Chapter 3, Article 2, Sections R3-3-201 through R3-3-212 renumbered from Title 3, Chapter 10, Article 2, Sections R3-10-201 through R3-10-212; Title 3, Chapter 3, Article 3, Sections R3-3-301 through R3-3-314 renumbered from Title 3, Chapter 10, Article 2, Sections R3-10-301 through R3-10-314; Title 3, Chapter 3, Article 4, Sections R3-3-401 through R3-3-404 renumbered from Title 3, Chapter 10, Article 4, Sections R3-10-401 through R3-10-404; Title 3, Chapter 3, Article 5, Sections R3-3-501 through R3-3-506 renumbered from Title 3, Chapter 10, Article 5, Sections R3-10-501 through R3-10-506; Title 3, Chapter 3, Article 6, Sections R3-3-601 through R3-3-617 renumbered from Title 3, Chapter 10, Article 6, Sections R3-10-601 through R3-10-617; Title 3, Chapter 3, Article 7, Sections R3-3-701 through R3-3-712 renumbered from Title 3, Chapter 3, Article 1, Sections R3-3-01 through R3-3-12; Title 3, Chapter 3, Article 8, Sections R3-3-801 through R3-3-812 renumbered from Title 3, Chapter 3, Article 2, Sections R3-3-21 through R3-3-32; Title 3, Chapter 3, Article 9, Sections R3-3-901 through R3-3-916 renumbered to Title 3, Chapter 3, Article 3, Sections R3-3-41 through R3-3-56 (Supp. 91-4).*

*New Sections R3-10-101, R3-10-201 through R3-10-212, R3-10-301 through R3-10-306, R3-10-308 through R3-10-312, R3-10-401 through R3-10-403, R3-10-501 through R3-10-505, and R3-10-601 through R3-10-617 adopted effective November 20, 1987.*

*Former Sections R3-10-01, R3-10-03, R3-10-20 through R3-10-25, R3-10-40 through R3-10-42, R3-10-42.01, R3-10-43 through R3-10-62, R3-10-64 through R3-10-66, R3-10-70, R3-10-71, R3-10-73 through R3-10-75, R3-10-77 through R3-10-87, R3-10-89, and R3-10-91 repealed effective November 20, 1987.*

**ARTICLE 1. GENERAL PROVISIONS**

Section	
R3-3-101.	Definitions
R3-3-102.	Licensing Time-frames
Table 1.	Time-frames (Calendar Days)

**ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION**

Section	
R3-3-201.	Regulated Grower Permit; Fee
R3-3-202.	Core Examination
R3-3-203.	Seller Permit; Fee; Responsible Individual
R3-3-204.	Agricultural Aircraft Pilot License; Examination; Fee; Renewal
R3-3-205.	Custom Applicator License; Examination; Fee; Renewal
R3-3-206.	Tag; Fee
R3-3-207.	Agricultural Pest Control Advisor License; Examination; Fee; Renewal; Exemption
R3-3-208.	Applicator Certification; Examination; Fee; Renewal
R3-3-209.	License and Fee Exemptions
R3-3-210.	Additional Grounds for Revocation, Suspension, or Denial of a License, Permit, or Certification
R3-3-211.	CEU Course Approval; Subject Approval
R3-3-212.	Experimental Use Permit
Appendix A.	Testing Categories

**ARTICLE 3. PESTICIDE USE, SALES, AND EQUIPMENT**

Section	
R3-3-301.	General
R3-3-302.	Form 1080; Requirement for Written Recommendation
R3-3-303.	Experimental Use
R3-3-304.	Pesticide Management Areas; Criteria for Designation
R3-3-305.	Pesticide Sales
R3-3-306.	Receipt of Restricted Use Pesticides by Noncertified Persons
R3-3-307.	Aircraft and Agricultural Aircraft Pilots
R3-3-308.	Pesticide Containers and Pesticides; Storage and Disposal
R3-3-309.	Returnable, Reusable, Recyclable, and Reconditionable Pesticide Containers
R3-3-310.	Fumigation Use

R3-3-311.	Repealed
R3-3-312.	Renumbered
R3-3-313.	Renumbered
R3-3-314.	Renumbered

**ARTICLE 4. RECORDKEEPING AND REPORTING**

Section	
R3-3-401.	Pesticide Seller Records
R3-3-402.	Private Applicator Records; Restricted Use Pesticide
R3-3-403.	Bulk Release Report
R3-3-404.	Form 1080; Reports to the Department
R3-3-405.	Disposal Records; Agricultural Pesticide Concentrate

**ARTICLE 5. NONEXCLUSIVE LISTS OF SERIOUS, NONSERIOUS, AND DE MINIMIS VIOLATIONS**

Section	
R3-3-501.	Serious Violations
R3-3-502.	Nonserious Violations
R3-3-503.	De minimis Violations
R3-3-504.	Mitigation
R3-3-505.	Unlisted Violations
R3-3-506.	Penalty and Fine Point System

**ARTICLE 6. REPEALED**

*Article 6, consisting of Sections R3-3-601 through R3-3-617, repealed effective April 11, 1994 (Supp. 94-2).*

**ARTICLE 7. PESTICIDE**

*Title 3, Chapter 3, Article 1, Sections R3-3-01 through R3-3-12 renumbered to Title 3, Chapter 3, Article 7, Sections R3-3-701 through R3-3-712 (Supp. 91-4).*

Section	
R3-3-701.	Definitions
R3-3-702.	Pesticide Registration; Fee
R3-3-703.	General Provisions
R3-3-704.	Labels
R3-3-705.	Renumbered
R3-3-706.	Renumbered
R3-3-707.	Renumbered
R3-3-708.	Renumbered
R3-3-709.	Renumbered
R3-3-710.	Renumbered
R3-3-711.	Renumbered

R3-3-712. Renumbered

**ARTICLE 8. FERTILIZER MATERIALS**

*Title 3, Chapter 3, Article 2, Sections R3-3-21 through R3-3-32 renumbered to Title 3, Chapter 3, Article 8, Sections R3-3-801 through R3-3-812 (Supp. 91-4).*

## Section

- R3-3-801. Definitions
- R3-3-802. Licensure; Specialty Fertilizer Registration; Fees
- R3-3-803. Tonnage Reports; Inspection Fee
- R3-3-804. General Provisions
- R3-3-805. Repealed
- R3-3-806. Repealed
- R3-3-807. Repealed
- R3-3-808. Repealed
- R3-3-809. Repealed
- R3-3-810. Repealed
- R3-3-811. Repealed
- R3-3-812. Renumbered

**ARTICLE 9. COMMERCIAL FEED**

*Title 3, Chapter 3, Article 3, Sections R3-3-41 through R3-3-56 renumbered to Title 3, Chapter 3, Article 9, Sections R3-3-901 through R3-3-916 (Supp. 91-4).*

## Section

- R3-3-901. Definitions
- R3-3-902. Licensure; Fee; Ammoniation
- R3-3-903. Tonnage Reports; Inspection Fee
- R3-3-904. Milk and Milk Products Decharacterized for Use as Commercial Feed
- R3-3-905. Labeling; Precautionary Statements
- R3-3-906. Non-protein Nitrogen
- R3-3-907. Repealed
- R3-3-908. Repealed
- R3-3-909. Repealed
- R3-3-910. Drug and Feed Additives
- R3-3-911. Repealed
- R3-3-912. Repealed
- R3-3-913. Sampling Methods
- R3-3-914. Repealed
- R3-3-915. Repealed
- R3-3-916. Repealed

**ARTICLE 10. AGRICULTURAL SAFETY**

(Authority: A.R.S. § 3-3101 et seq.)

*Title 3, Chapter 8, Article 2, Sections R3-8-201 through R3-8-208 renumbered to Title 3, Chapter 3, Article 10, Sections R3-3-1001 through R3-3-1008 (Supp. 91-4).*

*New Article 7 adopted effective July 13, 1989. (Supp. 89-3).*

*Article 2, consisting of Sections R3-2-201 through R3-8-208, transferred from the Industrial Commission, Title 4, Chapter 13, Article 7, Sections R4-13-701 through R4-13-708, pursuant to Laws 1990, Ch. 374, § 445 (Supp. 91-3).*

*Laws 1981, Ch. 149, effective January 1, 1982, provided for the transfer of the Office of Fire Marshal from the Industrial Commission to the Department of Emergency and Military Affairs, Division of Emergency Services (Supp. 82-2).*

## Section

- R3-3-1001. Definitions
- R3-3-1002. Worker Protection Standards
- R3-3-1003. Pesticide Safety Training
- R3-3-1004. Notification Requirements for Farm Labor Contractors

- R3-3-1005. Container Used for Mixing or Applying Pesticides
- R3-3-1006. Agricultural Emergency
- R3-3-1007. Violations and Civil Penalties
- R3-3-1008. Penalty Adjustments
- R3-3-1009. Failure to Abate
- R3-3-1010. Calculation of Additional Penalties For Unabated Violations
- R3-3-1011. Repeated or Willful Violations
- R3-3-1012. Citation; Posting

**ARTICLE 11. ARIZONA NATIVE PLANTS**

*Article 11, consisting of Sections R3-3-1101 through R3-3-1111 and Appendix A, recodified from 3 A.A.C. 4, Article 6 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).*

## Section

- R3-3-1101. Definitions
- R3-3-1102. Protected Native Plant Destruction by a Private Landowner
- R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency
- R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees
- R3-3-1105. Scientific Permits; Noncommercial Salvage Permits
- R3-3-1106. Protected Native Plant Survey; Fee
- R3-3-1107. Movement Permits; Tags, Seals, and Cord Use
- R3-3-1108. Recordkeeping; Salvage Assessed and Harvest Restricted Native Plants
- R3-3-1109. Arizona Native Plant Law Education
- R3-3-1110. Permit Denial
- R3-3-1111. Repealed
- Appendix A. Protected Native Plants By Category

**ARTICLE 1. GENERAL PROVISIONS****R3-3-101. Definitions**

In addition to the definitions in A.R.S. §§ 3-341 and 3-361, the following terms apply to Articles 1 through 5 of this Chapter:

“Acute toxicity” means adverse physiological effects that result from a single dose or single exposure to a chemical; or any poisonous effect produced by a single dose or single exposure to a chemical within a short period of time, usually less than 96 hours.

“Adulterate” means to change a pesticide so that:

Its strength or purity falls below the standard of quality stated on the labeling under which it is sold,

Any substance has been substituted wholly or in part for the pesticide, or

Any constituent of the pesticide has been wholly or in part abstracted.

“Agricultural aircraft pilot” means any individual licensed by the Department who pilots an agricultural aircraft to apply a pesticide.

“Agricultural commodity” means any plant, animal, plant product, or animal product produced for commercial or research purposes.

“Agricultural establishment” means any farm, forest, nursery, or greenhouse.

“Agricultural purpose” means use of a pesticide on an agricultural commodity. It excludes the sale or use of pesticides, in properly labeled packages or containers, for either of the following:

Home use, or

Use in swimming pools or spas.

“Aircraft” means any mechanism used in flight, excluding a remote-controlled mechanism.

“ALJ” means an individual or the Director who sits as an administrative law judge, who conducts administrative hearings in a contested case or an appealable agency action, and who makes decisions regarding the contested case or appealable agency action. A.R.S. § 41-1092(1)

“Animal” means all vertebrate and invertebrate species, including, but not limited to, humans and other mammals, birds, fish and shellfish. A.R.S. § 3-341(3)

“Application site” means the specific location, crop, object, or field to which a pesticide is or is intended to be applied.

“Applicator” means any individual who applies, or causes to have applied, any pesticide on an agricultural establishment.

“Authorized activities” means, for compliance with A.R.S. § 3-365(D), any organized activities scheduled at a school or child care facility that use the school or child care facility or the school or child care grounds and for which the sponsors or organizers of the activity have received the written approval of a responsible administrative official of the school or child care facility.

“Buffer zone” means an area of land that allows pesticide deposition and residues to decline to a level that poses a reasonable certainty of no harm to a defined area.

“Bulk release” means the release of any pesticide or mixture of pesticides that poses a potential risk to property, human health, or the environment in volumes greater than those prescribed by the pesticide label for the application site. A pesticide dripping from a spray nozzle or minor splashing during mixing is not a bulk release.

“Certified applicator” means any individual who is certified by the Department to use or supervise the use of any restricted use pesticide.

“CEU” means continuing education unit.

“Child care facility” means any facility in which child care is regularly provided for compensation for five or more children not related to the proprietor and is licensed as a child care facility by the Arizona Department of Health Services. A.R.S. § 36-881(3). Child care facilities are commonly known as day care centers.

“Commercial applicator” means a certified applicator (whether or not the applicator is a private applicator with respect to some uses) who uses or supervises the use of a restricted use pesticide for any purpose or on any property other than property owned or controlled by:

The applicator;

The applicator’s employer; or

Another person, if the application is performed without compensation, other than trading of personal services between producers of agricultural commodities.

“Contamination” means a concentration of pesticide sufficient to violate state or federal water, soil, food, feed, or air contamination standards, except if legally applied.

“Continued pesticide application” means the continuance of an interrupted application of the same pesticide to the same application site within the same section, township, and range within the same reporting period.

“Custom application equipment” means aircraft, remote-controlled equipment, and ground equipment used for pesticide application by a custom applicator.

“Custom applicator” means any person, except a person regulated by the SPCC, who applies pesticides for hire or by aircraft.

“Defoliation” means killing or artificially accelerating the drying of plant tissue with or without causing abscission.

“Device” means any instrument or contrivance that is intended to be used for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than a human being and a bacterium, virus, or other microorganism on or in a living human being or other living animal. Device does not include firearms, mechanical traps, or equipment used for the application of pesticides if the application equipment is sold separately.

“Diluent” means any substance added to a pesticide before application to reduce the concentration of the active ingredient in the mixture.

“Direct release” means to apply a pesticide outside the boundaries of an application site, at the time of application, while the valve controlling the normal flow of pesticide from the application device is in the open position and the application device is not within the confines of the application site. Direct release does not mean the drift or discharge of a pesticide caused by a mechanical malfunction of the application device that is beyond the control of the operator. Direct release does not mean a release caused by accident, or done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release.

“Disposal” means discarding a pesticide or pesticide container that results in the deposit, dumping, burning, or placing of the container or unused pesticide on land or into the air or water.

“Drift” means the physical movement of pesticide through the air at the time of a pesticide application from the application site to any area outside the boundaries of the application site. Drift does not include movement of a pesticide or associated degradation compounds to any area outside the boundaries of an application site if the movement is caused by erosion, run off, migration, volatility, or windblown soil particles that occur after application, unless specifically addressed on the pesticide label with respect to drift control requirements.

“EPA” means the United States Environmental Protection Agency.

“Experimental use permit” means a permit issued by the EPA, or the Department pursuant to A.R.S. § 3-350.01, to a person for the purpose of experimentation, which includes the accumulation of information necessary for the registration of a pesticide.

“Exposure” means the inhalation or ingestion of a pesticide, or eye or skin contact with a pesticide.

“Family member” means spouse, child, sibling, parent, grandparent, grandchild, stepparent, or stepchild.

“FFDCA” means the Federal Food, Drug and Cosmetic Act, as amended.

“FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq.

“Fumigant” means a substance or mixture of substances that produces gas vapor or smoke intended to control a pest in stored agricultural commodities or to control burrowing rodents.

“Health care institution” means any institution that provides medical services, nursing services, health screening services, and other health-related services, and is licensed by the Arizona Department of Health Services.

“Highly toxic pesticide” means a pesticide with an acute oral LD<sub>50</sub> of 50 milligrams per kilogram of body weight or less, dermal LD<sub>50</sub> of 200 milligrams per kilogram of body weight or less, or inhalation LD<sub>50</sub> of 0.2 milligrams per liter of air or less, and the label bears the signal words “danger” and “poison” and shows a skull and crossbones.

“Individual” means a human being.

“Insect” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice. A.R.S. § 3-341(14)

“Integrated Pest Management” or “IPM” means a sustainable approach to managing pests that uses any combination of biological, chemical, cultural, genetic, manual, or mechanical tools or techniques in a way that minimizes health, environmental, and economic risks.

“Label” means the written, printed or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if there is any, of the pesticide or device. A.R.S. § 3-341(15)

“Labeling” means all labels and other written, printed or graphic matter:

(a) Upon the pesticide or device or any of its containers or wrappers.

(b) Accompanying the pesticide or device at any time.

(c) To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, non-misleading reference is made to current official publications of the United States departments of agriculture or interior, the United States public health service, state experiment stations, state agricultural colleges or other similar federal institutions or official agencies of the state or other states authorized by law to conduct research in the field of pesticides. A.R.S. § 3-341(16).

“LD<sub>50</sub>” means a single dose of pesticide that will kill at least 50 percent of laboratory test animals as determined by an EPA- approved procedure.

“Livestock” means clovenhoofed animals, horses, mules, or asses.

“PCA” or “agricultural pest control advisor” means any individual licensed by the Department who, as a requirement of, or incidental to, the individual’s employment or occupation:

Offers a written recommendation to a regulated grower or to any public or private agency concerning the control of any agricultural pest,

Claims to be an authority or general advisor on any agricultural pest or pest condition, or

Claims to be an authority or general advisor to a regulated grower on any agricultural pest.

“Person” means any individual, partnership, association, corporation or organized group of persons whether incorporated or not. A.R.S. § 3-341(19)

“Pest” means:

a. Any weed, insect, vertebrate pest, nematode, fungus, virus, bacteria or other pathogenic organisms.

b. Any other form of terrestrial or aquatic plant or animal life, except virus, bacteria or other microorganism on or in living humans or other living animals, which the director declares to be a pest for the purpose of enforcement of this Article. A.R.S. § 3-341(20)

“Pesticide” means any substance or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating insects, fungi, bacteria, weeds, rodents, predatory animals or any form of plant or animal life which is, or which the director may declare to be, a pest which may infest or be detrimental to vegetation, humans, animals or households or which may be present in any environment. A.R.S. § 3-361(6)

“Pesticide container” means any container with an interior surface that is in direct contact with a pesticide.

“Pesticide use” means the sale, processing, storing, transporting, handling or applying of a pesticide and disposal of pesticide containers. A.R.S. § 3-361(7)

“Private applicator” means a certified applicator who uses or supervises the use of a restricted use pesticide for producing an agricultural commodity on property owned or controlled by:

The applicator;

The applicator’s employer; or

Another person, if the pesticide is applied without compensation, other than trading of personal services between producers of agricultural commodities.

“Property boundary” means the legal boundary of the land on which a child care facility, health care institution, residence, or school sits, unless another boundary is established by a written agreement with the owner of the child care facility, health care institution, residence, or school. Under a written agreement, the parties shall not establish a boundary that is less than ten feet from the child care facility, health care institution, residence, or school.

“Ready-to-use” means a registered pesticide, in the manufacturer’s original container, that does not require dilution by the end user.

“Regulated grower” means a person who acquires or purchases pesticides or contracts for the application of pesticides to agricultural commodities or onto an agricultural establishment, as a part of the person’s normal course of employment or activity as an owner, lessee, sublessee, sharecropper, or manager of the land to which the pesticide is applied.

“Reporting period” means no later than the Thursday following the calendar week in which an application is completed.

“Residence” means a dwelling place where one or more individuals are living.

“Responsible individual” means an individual at a seller’s location who has passed the core examination prescribed in R3-3-202 and is designated by the seller under R3-3-203.

“Restricted use pesticide” means a pesticide classified as such by the EPA. A.R.S. § 3-361(8).

“School” means a public institution established for the purposes of offering instruction to pupils in programs for pre-school children with disabilities, kindergarten programs or any combination of grades one through twelve. A.R.S. § 15-101(19). School includes a private institution with membership in the North Central Association of Colleges and Schools serving students in kindergarten programs or any combination of grades one through twelve.

“Seller” means any person selling or offering for sale a restricted use pesticide or other type of pesticide intended to be used for an agricultural purpose.

“Service container” means a container used to temporarily hold, store, or transport a pesticide concentrate or a registered, ready-to-use pesticide other than the original labeled container, measuring device, or application device.

“Small scale test” means a test using a pesticide on land or water acreage as described at 40 CFR 172.3(c)(1) or (2).

“SPCC” means the Arizona Structural Pest Control Commission.

“Spot application” means a treatment in an area other than a greenhouse or nursery operation that is restricted to an area of a field that is less than the entire field.

“Tag” means a custom application equipment license issued by the Department to a custom applicator licensee.

“Triple rinse” means to flush out a container at least three times, each time using a volume of water, or other diluent as specified on the label, equal to a minimum of 10 percent of the container’s capacity or a procedure allowed by the label that produces equivalent or better results.

“Unreasonable adverse effect” means any unreasonable risk to a human being or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food as documented by the Department through its investigation.

“Weed” means any plant which grows where not wanted. A.R.S. § 3-341(24)

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-101 (Supp. 91-4). Amended by  
final rulemaking at 10 A.A.R. 276, effective March 6,  
2004 (Supp. 04-1).

#### R3-3-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.

1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
  2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
  3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
  2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

#### Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Regulated Grower Permit	A.R.S. § 3-363	14	14	56	14	70
Seller Permit	A.R.S. § 3-363	14	14	56	14	70
Agricultural Aircraft Pilot License	A.R.S. § 3-363	14	14	56	14	70
Custom Applicator License	A.R.S. § 3-363	14	14	63	14	77
Application Equipment Tag	A.R.S. § 3-363	14	14	56	14	70
Agricultural Pest Control Advisor (PCA) License	A.R.S. § 3-363	14	14	63	14	77
Commercial Applicator Certification	A.R.S. § 3-363	14	14	63	14	77
Private Applicator Certification	A.R.S. § 3-363	14	14	63	14	77
Private Fumigation Certification	A.R.S. § 3-363	14	14	63	14	77
Experimental Use Permit	A.R.S. § 3-350.01	14	14	28	14	42

Pesticide Registration	A.R.S. § 3-351	14	14	91	14	105
License to Manufacture or Distribute Commercial Feed	A.R.S. § 3-2609	14	14	42	14	56
Commercial Fertilizer License	A.R.S. § 3-272	14	14	42	14	56
Specialty Fertilizer Registration		14	14	56	14	70
Agricultural Safety Trainer Certification	A.R.S. § 3-3125	28	14	28	14	56
<b>ARIZONA NATIVE PLANTS</b>						
Notice of Intent	A.R.S. § 3-904	14	14	14	14	28
Confirmation Notice of Intent						
• Salvage Assessed Native Plant Permits	A.R.S. § 3-906	14	14	14	14	28
• Salvage Restricted Native Plant Permits		14	14	14	14	28
• Scientific Permits		14	14	14	14	28
Movement Permits	A.R.S. § 3-906	14	14	14	14	28
Annual Permits for Harvest-Restricted Native Plants	A.R.S. § 3-907	14	14	14	14	28

**Historical Note**

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2663, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION****R3-3-201. Regulated Grower Permit; Fee**

- A. A regulated grower shall not order, purchase, take delivery of, use, or recommend the use of any pesticide for an agricultural purpose without a valid regulated grower permit, issued by the Department.
- B. A person applying for a regulated grower permit, initial or renewal, shall provide the following information on a form obtained from the Department:
  1. Name, signature, and social security or employer's identification number of the applicant;
  2. Date of the permit application;
  3. Name, address, e-mail address, if applicable, and daytime telephone number of the company or farm where the applicant may be reached;
  4. Permit renewal period; and
  5. Sections, townships, ranges, and acres of the land where pesticides may be applied.
- C. The applicant shall submit the completed application to the Department accompanied by a \$20 fee for each year or portion of the year during which the permit is valid.
- D. A regulated grower permit is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-202. Core Examination**

- A. In addition to other requirements prescribed by this Article, an individual seeking any of the following shall obtain a score of at least 75 percent on a written core examination administered by the Department:
  1. Designation as a responsible individual;
  2. An initial license as:
    - a. An agricultural aircraft pilot;
    - b. A custom applicator;
    - c. An agricultural pest control advisor; or

3. An initial certification as:
  - a. A private applicator; or
  - b. A commercial applicator.

- B. The Department shall administer examinations by appointment at every Environmental Services Division office. The Department shall ensure that the examination tests the knowledge and understanding of the following subjects that are described in more detail at Appendix A, subsections (A) and (C):
  1. Pesticide use, safety, and toxicity;
  2. Pesticide labels and labeling;
  3. Pesticide terminology;
  4. Common causes of accidents;
  5. Necessity for protective equipment;
  6. Poisoning symptoms;
  7. Practical first aid; and
  8. Statutes and rules relating to the sale, application, and use of pesticides.
- C. An individual who fails the examination may retake the examination no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-201 (Supp. 91-4). Former Section R3-3-202 renumbered to R3-3-203; new R3-3-202 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-203. Seller Permit; Fee; Responsible Individual**

- A. A person shall not act as a seller without a valid seller permit, issued by the Department.
- B. A seller shall obtain a seller permit for each physical location where the seller sells or offers for sale any restricted use pesticide or pesticide for an agricultural purpose within the state.
- C. A person applying for a seller permit, initial or renewal, shall provide the following information on a form obtained from the Department:

1. Name and signature of the responsible individual, and license number, if applicable;
  2. Date of the permit application;
  3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the location selling a restricted use pesticide or a pesticide for an agricultural purpose;
  4. Permit renewal period;
  5. Name, e-mail address, and daytime telephone number of the Arizona contact for each out-of-state seller, if applicable;
  6. Address where records required to be maintained under R3-3-401 will be kept;
  7. Whether the applicant has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application; and
  8. If applicable, the number of the license or certificate of the responsible individual, and current seller permit number.
- D.** The applicant shall submit the completed application to the Department accompanied by a \$100 fee for each year or portion of the year during which the permit is valid.
- E.** A seller permit is not transferable, expires on December 31, and is valid for one or two years, depending on the permit renewal period selected by the applicant. The Department shall not renew a seller permit unless the seller is in compliance with the provisions established in subsection (F), if applicable.
- F.** A seller shall designate a different responsible individual for each physical location in this state that sells or offers for sale any restricted use pesticide.
1. If a responsible individual terminates employment at an assigned location, the seller shall designate another responsible individual within 30 calendar days and notify the Department of the replacement.
  2. For a responsible individual who is not a commercial applicator or a PCA:
    - a. The core examination expires December 31, unless the initial examination is passed in the last quarter of a calendar year, in which case the expiration is December 31 of the following year; and
    - b. The responsible individual shall retake and pass the core examination every year, unless the responsible individual completes three CEUs annually before the renewal date.
- Historical Note**  
Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-203 (Supp. 91-4). Former Section R3-3-203 renumbered to R3-3-204; new R3-3-203 renumbered from R3-3-202 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).
- R3-3-204. Agricultural Aircraft Pilot License; Examination; Fee; Renewal**
- A.** An individual shall not act as an agricultural aircraft pilot without:
1. A valid agricultural aircraft pilot license issued under this Section, and
  2. A valid commercial applicator certification issued under R3-3-208.
- B.** The Department shall not issue or renew an agricultural aircraft pilot license, and an existing agricultural aircraft pilot license is invalid unless the applicant or license holder has a valid commercial pilot's certificate issued by the Federal Aviation Administration and a valid commercial applicator certification.
- C.** An individual applying for an agricultural aircraft pilot license, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name, social security number, and signature of the applicant;
  2. Date of application;
  3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
  4. License renewal period;
  5. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
  6. Copy of the applicant's commercial pilot certificate issued by the Federal Aviation Administration, if not previously filed with the Department;
  7. Applicant's commercial applicator certification number; and
  8. Whether the applicant has had a similar certification or license revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application and the nature of the violation.
- D.** The applicant shall submit the completed application to the Department, accompanied by a \$50 fee for each year or portion of the year during which the license is valid.
- E.** An agricultural aircraft pilot license is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.
- F.** Examinations.
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on the written examination administered by the Department:
    - a. Safe flight and application procedures, including steps to be taken before starting a pesticide application, such as survey of the area to be treated, and considering the possible hazards to public health;
    - b. Calibration of aerial application equipment; and
    - c. Operation and application in the vicinity of schools, child care facilities, health care institutions, and residences.
  2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- G.** Renewal; expired license.
1. An applicant may renew an expired license without retaking the written examinations in subsection (F) under the following conditions:
    - a. The applicant submits the completed application and fee within 30 days after the expiration date, and
    - b. The applicant does not provide any pesticide-related service after the date the license expired until the date the renewal is effective.
  2. All other applicants for renewal shall retake the written examinations prescribed in subsection (F).
- Historical Note**  
Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-204 (Supp. 91-4). Former Section R3-3-204 renumbered to R3-3-205; new R3-3-204 renumbered from R3-3-203 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-205. Custom Applicator License; Examination; Fee; Renewal**

- A.** A person shall not act as a custom applicator without a valid custom applicator license issued by the Department.
- B.** A person applying for a custom applicator license, initial or renewal, shall provide the following information on a form obtained from the Department:
  - 1. Name and signature of the applicant;
  - 2. Date of the license application;
  - 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business under subsection (C);
  - 4. Tax identification number of the business;
  - 5. License renewal period;
  - 6. Whether the application is for ground or air custom application, or both;
  - 7. Names and current certification numbers of the commercial applicators employed by the business, as prescribed in subsection (C)(1);
  - 8. Evidence of insurance coverage, showing the name of the insurance carrier, policy number, policy term, policy limits, and any applicable exclusions; and
  - 9. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation.
- C.** The Department shall not issue or renew a custom applicator license and an existing custom applicator license is invalid unless the applicant or license holder:
  - 1. Is a commercial applicator or employs at least one individual who is certified as a commercial applicator under R3-3-208;
  - 2. Maintains or the business that employs the applicator or license holder maintains public liability, drift, and property damage insurance coverage with an aggregate amount of at least \$300,000 during the licensing period. The applicant or license holder shall provide evidence of insurance coverage to the Department upon initial application, for each renewal, or upon request of the Department; and
  - 3. Files with the Department a copy of the commercial applicator's valid Federal Aviation Administration commercial agricultural aircraft operator's certificate, if using aircraft. If not already on file with the Department, an applicant or license holder shall submit a copy of the certificate with the completed application form.
- D.** A custom applicator license holder may:
  - 1. Temporarily relinquish a custom applicator license if the custom applicator:
    - a. Advises the Department of termination of the insurance prescribed in subsection (C)(2), and the effective date of termination; and
    - b. Ceases to act as a custom applicator on the termination date.
  - 2. Reinstate the custom applicator license within the same licensing time period, without again paying the fee as prescribed in subsection (E), if the custom applicator:
    - a. Purchases insurance as prescribed in subsection (C)(2), and
    - b. Notifies the Department of the effective date of the insurance.
- E.** The applicant shall submit the completed application to the Department, accompanied by a \$100 fee for each year, or portion of the year during which the license is valid.
- F.** A custom applicator license is not transferable, expires on December 31, and is valid for one or two years, depending on the renewal period selected by the applicant.

**G. Examinations.**

- 1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on the written examination administered by the Department:
  - a. Calibration of application equipment;
  - b. Aerial application procedures, if applicable; and
  - c. Ground application procedures, if applicable.
- 2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

**H. Renewal; expired license.**

- 1. An applicant may renew an expired license without retaking the written examinations in subsection (G) under the following conditions:
  - a. The applicant submits the completed application and fee within 30 days after the expiration date, and
  - b. The applicant does not provide any pesticide-related service after the date the license expired until the date the renewal is effective.
- 2. All other applicants for renewal shall retake the written examinations prescribed in subsection (G).

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-205 (Supp. 91-4). Former Section R3-3-205 renumbered to R3-3-206; new R3-3-205 renumbered from R3-3-204 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-206. Tag; Fee**

- A.** A custom applicator shall not use custom application equipment unless the equipment has a valid tag. The custom applicator licensee shall place and maintain a valid tag so that it is prominently displayed on the pesticide application equipment.
- B.** A person applying for a tag shall provide the following information on a form obtained from the Department:
  - 1. Name and signature of the applicant;
  - 2. Date of the application;
  - 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
  - 4. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business, if applicable; and
  - 5. Manufacturer, make, model and serial number, and if an aircraft, the aircraft registration number ("N" number) of the application equipment.
- C.** The Department shall not issue or renew a tag and an existing tag is invalid if the custom applicator license is invalid.
- D.** An applicant shall submit the completed application to the Department, accompanied by a \$25 fee for each piece of equipment, for each year or portion of the year during which the tag is valid.
- E.** A tag expires on December 31, and is valid for the same time period as the custom applicator license.
- F.** A custom applicator licensee shall not transfer a tag except as follows:
  - 1. If a licensed piece of equipment is destroyed, rendered unusable, or transferred out of the state, the custom applicator licensee may transfer the tag to another piece of equipment.



2. If a licensed piece of equipment is leased, sold, or traded, the custom applicator licensee shall transfer the tag with the equipment to the lessee or new owner.
3. Before transferring a tag, the custom applicator licensee shall notify the Department that the tag is being transferred and identify the person to whom the tag is being transferred or identify the piece of equipment to which the tag is being transferred, or the tag is invalid.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-206 (Supp. 91-4). Former Section R3-3-206 renumbered to R3-3-207; new R3-3-206 renumbered from R3-3-205 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-207. Agricultural Pest Control Advisor License; Examination; Fee; Renewal; Exemption**

- A. An individual shall not act as a PCA without a valid PCA license, issued by the Department. To advise in any of the categories listed in subsection (I), a PCA shall pass the specific examination associated with the category.
- B. An individual applying for a PCA license shall provide the following information on a form obtained from the Department:
  1. Name, social security number, and signature of the applicant;
  2. Date of the application;
  3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
  4. License renewal period;
  5. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
  6. List, by category, the examinations that the applicant has passed; and
  7. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation resulting in the revocation, suspension, or denial.
- C. Effective January 1, 2005, a person applying for a PCA license, except a person who holds or has held a PCA license in this state within the previous five years shall possess:
  1. A bachelor's degree (B.A. or B.S.) in the agricultural sciences, biological sciences, or pest management; or
  2. Forty-five semester units (67.5 quarter units) of college-level curricula as shown in the chart in subsection (D) and 24 months of technical experience.
- D. The college-level curricula specified in subsections (C)(1) and (2) shall include at least 45 semester units (67.5 quarter units) as shown in the following table:

Area of Study	Semester Units	Quarter Units
Physical and biological sciences, such as introduction to inorganic chemistry, organic chemistry, biochemistry, plant biology or botany, ecology, soils, irrigation, genetics, plant physiology, entomology, and zoology.	15	22.5
Crop health, such as vegetative management or weeds, plant pathology, entomology, plant nutrition or fertility, nematology, and vertebrate management.	12	18

Pest management systems and methods, with at least one course in pest management systems and one course in pest management methods. Pest management systems subjects include agricultural chemical applications, properties of pesticides, mode of action of agricultural chemicals, toxicology, environmental impact of pesticides, and biological control.	9	13.5
Production systems, such as environmental horticulture, horticulture, ornamental horticulture, forestry, agronomy, crop science, vegetable crops, animal science, or other production systems.	9	13.5
Total Units Required	45	67.5

- E. An applicant shall submit to the Associate Director an official transcript verifying the courses completed and the degrees granted to the applicant. In addition, an applicant qualifying under subsection (C)(2) shall submit employment records, a statement from an employer, or other similar proof of technical experience to the Associate Director.
- F. The applicant shall submit the completed application to the Department, accompanied by a \$50 fee.
- G. A PCA license is not transferable, expires on December 31, and is:
  1. Issued for up to one year as an initial license;
  2. Renewed every one or two years, depending on the renewal period selected by the applicant; and
  3. Renewed for all categories of license under subsection (I) for the same renewal period.
- H. Renewal.
  1. The continuing education requirement in subsection (H)(5) is not applicable to an individual who passes the examination prescribed in subsection (I) and who applies for a PCA license between October 1 and December 31 of the test year.
  2. Upon renewal, a PCA license is valid for one or two years, depending on the renewal period selected by the applicant, provided the applicant meets the criteria prescribed under this subsection.
  3. An applicant shall submit the completed application, accompanied by a \$50 fee for each licensing year or portion of the year during which the license is valid.
  4. Renewal; expired license.
    - a. An applicant may renew an expired license without retaking the written examinations under subsection (I) under the following conditions:
      - i. The applicant complies with CEU requirements in subsection (H)(5),
      - ii. The applicant submits a completed application and fee within 30 days after the expiration date, and
      - iii. The applicant does not provide any pest control-related service from the date the license expired until the date the renewal is effective.
    - b. All other applicants for renewal shall retake the applicable written examinations prescribed in subsection (I).
  5. The Department shall not renew a PCA license unless, before the expiration of the current license, the advisor completes 15 CEUs for each year of the renewal period or passes any applicable examination prescribed in subsection (I). An advisor shall complete CEU credit from Janu-

ary 1 through December 31. CEUs earned in a year that are in excess of the requirements do not carry forward for use in future years.

6. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.

**I. Examinations.**

1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of integrated pest management in any of the following categories by scoring at least 75 percent on a written examination:
  - a. Weed control,
  - b. Insect and mite control,
  - c. Nematode control,
  - d. Plant pathogen control,
  - e. Vertebrate pest control,
  - f. Plant growth regulators, or
  - g. Defoliation.
2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

- J. Exemption.** An individual operating in an official capacity for a college or university, providing recommendations in a not-for-profit capacity, or who merely furnishes information concerning general and labeling usage of a registered pesticide is not considered an authority or general advisor for the purposes of this Chapter.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-207 (Supp. 91-4). Former Section R3-3-207 repealed; new R3-3-207 renumbered from R3-3-206 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-208. Applicator Certification; Examination; Fee; Renewal**

- A.** An individual shall not act as a private applicator or commercial applicator unless the individual is certified by the Department.
- B.** Application. An individual applying for either commercial or private applicator certification shall pay a \$50 fee and submit a completed application to the Department containing the following information on a form obtained from the Department:
1. The applicant's name, address, e-mail address if applicable, daytime telephone number, Social Security number, and signature;
  2. Date of the application;
  3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
  4. Whether the application is for a commercial or private applicator certification;
  5. If applicable, an indication the applicant seeks private applicator fumigation certification;
  6. For commercial certification, the categories in which the applicant seeks to be certified;
  7. Whether the applicant has had a similar certification revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
  8. Certification renewal period.
- C.** Private applicator fumigation certification.

1. Fumigation certification requires certification as a private applicator or a commercial applicator.
2. Fumigation certification allows a private applicator or a commercial applicator acting as a private applicator to use, apply, or supervise the use or application of a fumigant to an on-farm raw agricultural commodity or on-farm burrowing rodent problem.

- D.** Examinations. The Department shall administer examinations by appointment at every Environmental Services Division office. An applicant shall achieve a passing score of 75 percent in the applicable subject area in order to receive initial certification.

1. Commercial applicator certification (PUC). In addition to the core examination required by R3-3-202, an applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (B) for each commercial certification category sought.
2. Commercial certification categories. An individual may apply for commercial applicator certification in any of the following categories:
  - a. Agricultural pest control,
  - b. Forest pest control,
  - c. Seed-treatment,
  - d. Aquatic pest control,
  - e. Right-of-way pest control,
  - f. Public health pest control,
  - g. Regulatory pest control: M-44 or rodent, if a government employee or
  - h. Demonstration and research pest control.
3. Private applicator certification (PUP). An applicant shall demonstrate knowledge and understanding of the core examination subjects listed in R3-3-202.
4. Fumigation certification. An applicant seeking private applicator fumigation certification shall also pass a separate fumigation examination.
5. An individual who fails an examination may retake it no more than three times in a 12-month period, and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

- E.** Applicator certification is not transferable, expires on December 31, and is:

1. Issued for the remainder of the calendar year as an initial certification;
2. Renewed for one or two years, depending on the renewal period selected by the applicant; and
3. Renewed for all categories of certification for the same renewal period.

**F. Renewal.**

1. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
2. An applicant shall submit the completed application accompanied by a \$50 fee for a one-year renewal or \$100 for a two-year renewal.
3. CEU requirements.
  - a. The Department shall not renew a private applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEUs for each year of the renewal period.
  - b. The Department shall not renew a commercial applicator certification unless, prior to expiration of the current certification, the applicator completes six CEUs for each year of the renewal period.
  - c. The Department shall not renew a fumigation certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's private or commercial applicator certification.

cation under this subsection and completes three additional CEUs per year of the renewal period.

- d. An applicator shall complete CEU credit while the current certification period is in effect. CEUs earned in excess of the requirements do not carry forward for use in subsequent renewals.
  - e. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
  - f. The CEU requirements are not applicable to an individual renewing an initial certification issued between October 1 and December 31.
4. Examination exception. An applicator who fails to complete the CEUs required for renewal may renew a certification, prior to expiration, for one year by submitting the completed application accompanied by a \$50 fee and retaking and passing the applicable certification examination prescribed in this Section.

**G. Renewal; expired certification.**

1. An applicant may renew an expired certification without retaking the written examinations provided the applicant:
  - a. Has satisfied the CEU requirements,
  - b. Submits a completed application and fee within 30 days after the expiration date, and
  - c. Does not provide any pesticide-related service from the date the certification expired until the date the renewal is effective.
2. All other applicants for renewal shall complete the requirements for initial certification, including retaking and passing the written examinations prescribed in this Section.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-208 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 18 A.A.R. 2481, effective November 10, 2012 (Supp. 12-3).

**R3-3-209. License and Fee Exemptions**

- A. A person who applies pesticides in buildings or for structural pest control purposes is not required to apply for or possess any license or certification from the Department.
- B. A person who sells, offers for sale, delivers, or offers for delivery a general use pesticide, to be used for private, noncommercial use in or around the home or a person who sells general use pesticides for swimming pool or spa maintenance is not required to apply for or possess a seller's permit from the Department.
- C. A state, federal, or other governmental employee who makes pest control recommendations or applies or supervises the use of restricted use pesticides while engaged in the performance of official duties shall meet the requirements of this Article, but is not required to pay a fee for either a PCA license or a commercial applicator certification.
- D. A person who only furnishes information concerning label requirements governing a registered pesticide is not required to apply for or possess a PCA license from the Department.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-209 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-210. Additional Grounds for Revocation, Suspension, or Denial of a License, Permit, or Certification**

- A. The Director has the authority to deny, or after an administrative hearing, suspend or revoke a license, permit, or certification of any person who:
  1. Fails to demonstrate sufficient reliability, expertise, integrity, and competence in engaging in pesticide use;
  2. Submits an inaccurate application for a license, permit, or certification; or
  3. Has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application.
- B. Upon notice of a denial, the applicant may request, in writing, that the Director provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10 to appeal the denial of the license, permit, or certification.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-210 (Supp. 91-4). Former Section R3-3-210 repealed; new R3-3-210 renumbered from R3-3-211 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-211. CEU Course Approval; Subject Approval**

- A. CEU course approval.
  1. A person who wishes to have the Department determine whether a course qualifies for CEU credit shall submit the following information to the Department:
    - a. Name, address, e-mail address, if applicable, and telephone number of the course's sponsor;
    - b. Signature of the sponsor or the sponsor's representative;
    - c. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
    - d. Brief description of the information covered within each subject;
    - e. Brief biography of the presenter, demonstrating the presenter's qualifications;
    - f. Fees charged for attending the course;
    - g. Date and location of each session; and
    - h. Whether the course is open to the public.
  2. A person who requires prior notification of the number of CEUs that can be earned by completing an approved course before it is held shall submit the information required in subsection (A)(1) to the Department at least 14 business days before the course is held.
  3. The Department may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the Department modifies the number of CEUs earned, the Department shall send a letter of modification to the course organizer, who shall be requested to inform all individuals who attended the course.
- B. Subject approval. The Department shall grant one hour of CEU credit for every 50 minutes of actual instruction in an approved program relating to agricultural pest control or any of the following subjects:
  1. Those listed in R3-3-208(F)(1),
  2. IPM, or
  3. Any other pesticide or pesticide use subject approved by the Associate Director.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-211 (Supp. 91-4). Former Section R3-3-211 renumbered to R3-3-210; new R3-3-211

renumbered from R3-3-212 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **R3-3-212. Experimental Use Permit**

- A.** Small scale pesticide testing. For a person exempted by Section 5 of FIFRA or 40 CFR 172.3 from the requirement of a federal experimental use permit the following apply:
1. The person shall, in addition to meeting the requirements in R3-3-303, provide to the Associate Director a statement of purpose and an affidavit verifying that the pesticide will be applied to an application site that does not exceed the total area described in 40 CFR 172.3(c); and
  2. If testing on the grounds of a college or university agricultural center or campus, or company-owned research facility, the testing is exempt from subsection (A)(1) and the reporting requirements in R3-3-303.
- B.** A person engaged in a small scale test, except a person exempt under subsection (A)(2), shall comply with the requirements prescribed in R3-3-302, if applicable.

### **Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-212 (Supp. 91-4). Former Section R3-3-212 renumbered to R3-3-211; new R3-3-212 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **APPENDIX A TESTING CATEGORIES**

- A.** Commercial Applicator Certification, 40 CFR 171.4(b)(i)-(viii).
1. Label & labeling comprehension.
    - a. The general format and terminology of pesticide labels and labeling;
    - b. The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
    - c. Classification of the product, general or restricted; and
    - d. Necessity for use consistent with the label.
  2. Safety. Factors including:
    - a. Pesticide toxicity and hazard to man and common exposure routes;
    - b. Common types and causes of pesticide accidents;
    - c. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
    - d. Need for and use of protective clothing and equipment;
    - e. Symptoms of pesticide poisoning;
    - f. First aid and other procedures to be followed in case of a pesticide accident; and
    - g. Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.
  3. Environment. The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:
    - a. Weather and other climatic conditions;
    - b. Types of terrain, soil or other substrate;
    - c. Presence of fish, wildlife and other non-target organisms; and
    - d. Drainage patterns.
  4. Pests. Factors such as:

- a. Common features of pest organisms and characteristics of damage needed for pest recognition;
  - b. Recognition of relevant pests; and
  - c. Pest development and biology as it may be relevant to problem identification and control.
5. Pesticides. Factors such as:
    - a. Types of pesticides;
    - b. Types of formulations;
    - c. Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
    - d. Hazards and residues associated with use;
    - e. Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
    - f. Dilution procedures.
  6. Equipment. Factors including:
    - a. Types of equipment and advantages and limitations of each type; and
    - b. Uses, maintenance and calibration.
  7. Application techniques. Factors including:
    - a. Methods of procedure used to apply various formulations of pesticides, solutions, and gases, together with a knowledge of which technique of application to use in a given situation;
    - b. Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
    - c. Prevention of drift and pesticide loss into the environment.
  8. Laws and regulations. Applicable State and Federal laws and regulations.
- B.** Commercial Certification Categories, 40 CFR 171.4(c)(1) through (6) and (8) through (10).
1. Agricultural pest control.
    - a. Plant. Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of restricted use pesticides in agricultural areas.
    - b. Animal. Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.
  2. Forest pest control. Applicators shall demonstrate practical knowledge of types of forests, forest nurseries, and seed production in this state and the pests involved. They shall possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of

pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

3. Seed-treatment. Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.
4. Aquatic pest control. Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.
5. Right-of-way pest control. Applicators shall demonstrate practical knowledge of a wide variety of environments, since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.
6. Public health pest control. Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They shall also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.
7. Regulatory pest control. Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.

8. Demonstration and research pest control. Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problems situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they shall demonstrate an understanding of a pesticide-organism interaction and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in (G)(1). In addition, they shall meet the specific standards required for subsections (c)(1) through (7) of this subsection as may be applicable to their particular activity.

C. Private Certification, 40 CFR 171.5(a)(1) through (5).

1. Recognize common pests to be controlled and damage caused by them.
2. Read and understand the label and labeling information, including the common name of pesticides the applicator applied; pest(s) to be controlled, timing and methods of application; safety precautions; any pre-harvest or re-entry restrictions; and any specific disposal procedures.
3. Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
4. Recognize local environmental situations that must be considered during application to avoid contamination.
5. Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

**Historical Note**

New Appendix made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Appendix A subsection (B) CFR citation corrected from 40 CFR.4 to 40 CFR 171.4 at the request of the Department, Office File No. M09-448, filed December 8, 2009 (Supp. 09-4).

**ARTICLE 3. PESTICIDE USE, SALES, AND EQUIPMENT**

**R3-3-301. General**

- A. A person shall not use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with the pesticide labeling except that:
1. A pesticide may be applied at a dosage, concentration, or frequency less than that specified on the pesticide labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.
  2. A pesticide may be applied against any target pest not specified on the labeling if the application is to an application site specified on the pesticide labeling, unless the labeling specifically prohibits use against the pest.
  3. A pesticide may be applied by any method of application not prohibited by the pesticide labeling unless the labeling specifically states that the pesticide may be applied only by the methods specified on the labeling.
  4. A pesticide may be mixed with a fertilizer if the labeling does not prohibit the mixture.
  5. A pesticide may be used in any manner that is consistent with Sections 5, 18, or 24 of FIFRA.

- B. A person shall not use, apply, or store or instruct another to use, apply, or store a pesticide unless the pesticide is:
    - 1. Registered with the Department and the EPA, or
    - 2. Previously registered with the Department and the EPA and cancelled or suspended by the EPA with a current end-use provision in effect.
  - C. Subsection (B) does not apply to a:
    - 1. Pesticide registrant that temporarily stores pesticides produced for shipment out of the state;
    - 2. Person who has applied for registration or exemption in this state; or
    - 3. Person who is acting under an experimental use permit on the grounds of a college or university agricultural center or campus, or a company-owned research facility.
  - D. A person shall not allow drift that causes any unreasonable adverse effect.
  - E. A person shall not cause the direct release of a pesticide and an individual shall not instruct an applicator in a manner to cause the direct release of a pesticide causing any unreasonable adverse effect.
  - F. Regulated grower responsibility.
    - 1. After a pesticide is applied to a field on an agricultural establishment, the regulated grower shall not harvest a crop from the field, or permit livestock to graze in the field in violation of any provision of the pesticide labeling.
    - 2. Before a pesticide application, a regulated grower shall ensure that all individuals and livestock subject to the regulated grower's control are outside the application site.
  - G. Emergency pest control measures. A person acting under a government-sponsored emergency program, shall not apply, cause, or authorize another to apply or cause a pesticide to come into contact with an individual, animal, or property outside the boundaries of the application site.
  - H. If possible when applying pesticides by aircraft, a pilot shall fly crosswind, unless an obstacle does not permit it, and shall begin the application at the downwind side of the field so that the pesticide is dispersed on the return swathe.
  - I. A person shall not apply a highly toxic pesticide, other than a pesticide registered by the EPA for ultra low volume application, in a volume that is less than one gallon per acre in the final spray form. The content of that gallon shall be at least 50 percent water.
  - J. A buffer zone may receive direct application or drift of pesticides as permitted by law.
- 7. Anticipated date of harvest;
  - 8. Restricted entry interval;
  - 9. Label days to harvest;
  - 10. Date recommended for the pesticide application;
  - 11. Specific application site being treated;
  - 12. Township, range, and section of the application site;
  - 13. Number of acres or application sites in each section being treated;
  - 14. Additional field description, if any;
  - 15. Brand name and EPA registration number of the pesticide to be applied or number of the pesticide regulated under Section 18 of FIFRA to be applied;
  - 16. Rate and unit of measure per acre or dilution per 100 gallons;
  - 17. Total quantity of pesticide concentrate to be applied;
  - 18. Total acres to be treated and total volume per acre or total number of application sites to be treated;
  - 19. Whether the application includes an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and is soil-applied as defined in A.A.C. R18-6-101;
  - 20. Whether a supplemental label is required;
  - 21. Method of pesticide application;
  - 22. Label restrictions or special instructions, if any;
  - 23. Name of the custom applicator making the application;
  - 24. Anticipated pesticide delivery location; and
  - 25. Signature and credential number of the regulated grower or PCA making the recommendation.
- B. A custom applicator shall not apply a pesticide unless the custom applicator has received a signed copy of the recommendation from the PCA or the regulated grower on the Form 1080 before the application. The custom applicator shall apply the pesticide according to the recommendation on the Form 1080 unless the recommendation conflicts with the pesticide label or labeling, in which case the custom applicator shall note these deviations on the Form 1080 and apply the pesticide according to the pesticide label or labeling, or as provided in R3-3-301(A).
  - C. Before the application of a pesticide recommended by a PCA, the PCA shall notify the regulated grower, or the regulated grower's representative, of the scheduled application date. If the application date or time changes from that scheduled with the regulated grower, the custom applicator shall notify the regulated grower of the revised date and time of the application.
  - D. After completing the application, the custom applicator shall sign the pesticide application report portion of Form 1080 to verify that the pesticide was applied according to the recommendation and provide the following information in writing on the form:
    - 1. Date and time of each application;
    - 2. Date and time of the first and last spot application and a general description of the location, if applicable;
    - 3. Wind direction and velocity;
    - 4. Tag number, if applicable;
    - 5. Name and credential number of the grower or custom applicator business;
    - 6. Signature and credential number of the applicator; or name of the application equipment operator, and if a restricted use pesticide is applied, the signature and credential number of the certified applicator; and
    - 7. Any deviation from the recommendation.
  - E. Reporting shall be as prescribed in R3-3-404.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-301 (Supp. 91-4). Amended by  
 final rulemaking at 10 A.A.R. 276, effective March 6,  
 2004 (Supp. 04-1).

#### R3-3-302. Form 1080; Requirement for Written Recommendation

- A. A PCA or regulated grower shall provide the following information, as applicable, in writing on a Form 1080, sign the form, and provide a copy to the custom applicator before each pesticide application that is to be made by a custom applicator:
  - 1. Name and permit number of the seller;
  - 2. Date the recommendation is written;
  - 3. Name and permit number of the regulated grower upon whose application site the pesticide will be applied;
  - 4. County where the application site is located;
  - 5. Pest conditions present;
  - 6. Whether the application site is within a pesticide management area under R3-3-304;

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-302 (Supp. 91-4). Section

repealed; new Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **R3-3-303. Experimental Use**

- A.** A person supervising application of a pesticide under a federal experimental use permit shall provide the Department with the following information in writing at least five days before application of the experimental use pesticide:
1. A copy of the EPA-approved experimental use permit, as required by Section 5 of FIFRA;
  2. Name, address, e-mail address, if applicable, and daytime telephone number of the supervising technical individual for the experimental use;
  3. Application site to be treated, the location of the application site, the quantity of the commodity or the area of land to be treated, and the number of structures, if any;
  4. Total amount of active ingredient to be applied in this state;
  5. Rate of formulation applied per unit of measure;
  6. Method of application;
  7. Time period during which the application will be made; and
  8. Any special experimental use permit condition as determined by the Department or by the EPA.
- B.** If any information provided under subsection (A) changes, the person supervising the pesticide application under a federal experimental use permit shall notify the Department at least 24 hours before the application of the experimental use pesticide. If the notification of change is given verbally, the person supervising the pesticide application under a federal experimental use permit shall provide the Department with written confirmation within 15 days after the date of the change.
- C.** At least 24 hours before the application, the supervising technical individual shall provide the Department with the following information:
1. Name, address, e-mail address, if applicable, and daytime telephone number of the regulated grower and PCA, or the qualifying party if it is a structural pest control application, that are involved in the application of the experimental use pesticide;
  2. County, section, township, range, and field description, if needed, of the intended application site, or the street address if it is a structural pest control application as defined in A.R.S. § 32-2301(20);
  3. Name, address, e-mail address, if applicable, and telephone number of the applicator applying the pesticide; and
  4. Date and time of the intended application.
- D.** An applicator shall not apply an experimental use pesticide in a manner other than that specified by the experimental use permit or other Department-approved labeling that is provided to the applicator. The applicator shall ensure that the labeling is at the application site when the application occurs.

#### **Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-303 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-306 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **R3-3-304. Pesticide Management Areas; Criteria for Designation**

- A.** The Associate Director shall annually publish a list of all locations within the state that are designated as pesticide management areas under A.R.S. § 3-366. The list is available at every Environmental Services Division office.

- B.** The Director shall designate a location as a pesticide management area if all of the following evaluation criteria are met:
1. The distance between the application site and the property boundary of any residence, school, child care facility, or health care institution is less than 1/4 mile;
  2. A pesticide is applied by aircraft;
  3. A pesticide complained about under subsection (B)(4) is highly toxic or odoriferous; and
  4. The Department receives complaints alleging pesticide misuse within a 12-month period from at least five or five percent, whichever is greater, of the residences located less than 1/4 mile from the application site or a complaint from any school, child care facility, or health care institution located less than 1/4 mile from the application site.
- C.** If, upon a written request from a person, or upon the Department's initiative, the Director determines that a pesticide management area no longer meets all of the criteria listed in subsection (B), the Director may remove the pesticide management area from the Department's annual list.
- D.** A person may petition the Department at any time to add or delete an area to or from the list of pesticide management areas. The petitioner shall address all of the criteria listed in subsection (B). The Director shall make a decision on each petition no later than 90 days from the date the petition was submitted.

#### **Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-304 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-308 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **R3-3-305. Pesticide Sales**

- A.** A seller shall not sell, offer for sale, deliver, or offer for delivery any restricted use pesticide or pesticide for an agricultural purpose without determining that the pesticide will be used by a person who:
1. Has a valid certification or regulated grower permit issued by the Department or SPCC for use of the pesticide, or
  2. Works under the direct supervision of a person who has a valid certification or regulated grower permit issued by the Department or SPCC for the use of the pesticide.
- B.** If a pesticide is sold for an agricultural purpose, the seller shall write the permit numbers of the seller and regulated grower on each sale and delivery ticket or invoice, and on each pesticide container or carton. If a pallet is delivered to an individual purchaser, the seller may write the seller and regulated grower numbers on the outside of the shrink-wrapped pallet.
- C.** A seller shall register with the Department the name and address of each salesperson and PCA employed for the purpose of selling pesticides in this state.

#### **Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-305 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-309 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### **R3-3-306. Receipt of Restricted Use Pesticides by Noncertified Persons**

- A.** A person shall not sell, offer for sale, deliver, or offer for delivery a restricted use pesticide to a person other than a certified applicator without having first obtained written documentation from a certified applicator or a noncertified recipient that the

material is to be applied by or under the supervision of a certified applicator.

- B.** The seller shall obtain one of the following types of written documentation to satisfy the requirement in subsection (A):
1. A photocopy or fax of the certificate issued to the certified applicator who will be applying or supervising application of the restricted use pesticide and:
    - a. A statement signed by the certified applicator, authorizing and identifying the noncertified individual to purchase or receive the restricted use pesticide for the certified applicator; or
    - b. A copy of a signed contract or agreement, authorizing and identifying the noncertified person to receive the restricted use pesticide for the certified applicator; or
  2. A form on file with the seller that contains the following information:
    - a. Name of any individual authorized to receive the restricted use pesticides for the certified applicator;
    - b. Relationship of an authorized individual to the certified applicator (partner, employee, co-worker, or family member);
    - c. List of the restricted use pesticides an authorized individual is allowed to receive, specifying the:
      - i. Trade name; and
      - ii. EPA registration number; or
      - iii. State special local need registration number issued by the Department; or
      - iv. Emergency exemption number, issued by the EPA under Section 18 of FIFRA, if applicable;
    - d. Signature of the authorized individual and the date signed; and
    - e. Certified applicator's signature, work address, work phone number, certification number, and certification categories (private fumigation or commercial and one or more of the following: agricultural pest, seed-treatment, right-of-way, forestry, aquatic, regulatory, or public health).
- C.** A seller shall request proof of identification from any noncertified individual accepting restricted use pesticides on behalf of a certified applicator if the individual is unknown to the seller.
- D.** A noncertified individual who receives a restricted use pesticide on behalf of a certified applicator shall sign all sale documents for restricted use pesticides.
- E.** If, at the time of the sale of the restricted use pesticide, the noncertified individual receiving the pesticide satisfies the requirements of subsection (B) by presenting a signed statement, contract, or agreement, the seller shall maintain on file a copy of the signed statement, contract, or agreement.
- F.** The seller shall retain records of all sales or deliveries made and maintain the documents required by this Section for at least two years from the date of sale.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-306 (Supp. 91-4). Former Section R3-3-306 renumbered to R3-3-303; new R3-3-306 renumbered from R3-3-310 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

#### R3-3-307. Aircraft and Agricultural Aircraft Pilots

- A.** A person shall not operate an aircraft to apply pesticides in this state unless the aircraft has a valid Federal Aviation Administration airworthiness certificate and a valid tag issued under R3-3-206.

- B.** A custom applicator shall not permit an individual who does not hold a valid agricultural aircraft pilot license and a valid commercial applicator certification to apply pesticides by aircraft.

#### Historical Note

Adopted effective January 17, 1989 (Supp. 89-1).  
Renumbered from R3-10-307 (Supp. 91-4). Former Section R3-3-307 repealed; new R3-3-307 renumbered from R3-3-312 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

#### R3-3-308. Pesticide Containers and Pesticides; Storage and Disposal

- A.** Each person storing pesticides or non-triple rinsed pesticide containers shall:
1. Provide a secure, well-ventilated storage location;
  2. Verify that the containers are nonleaking and closed if not in use; and
  3. Conspicuously post a sign at the entrance to the storage area warning others that pesticides are stored inside.
- B.** A person shall not place misleading wording or markings on a service container that are not related to the pesticide in the container.
- C.** A person using a service container to store or transport a pesticide concentrate or registered ready-to-use pesticide, shall place a durable and legible label or tag on the service container that lists:
1. Name, e-mail address, if applicable, and telephone number of the applicator or custom applicator using the pesticide;
  2. Brand or trade name of the pesticide;
  3. EPA registration number;
  4. Name and percentage of the active ingredient;
  5. Dilution, if any, in the service container;
  6. EPA-assigned signal word (danger, warning, or caution) for the registered label; and
  7. The phrase "KEEP OUT OF REACH OF CHILDREN."
- D.** A person shall not store or transport any pesticide in a container that has been used for food, feed, beverages, drugs, or cosmetics, or, because of shape, size, or marking is identified with food, feed, beverages, drugs, or cosmetics.
- E.** A person shall not dump, negligently store, or leave unattended any pesticide, service container, or pesticide container or part of a container, at any place or under any condition that will create a hazard to an individual, an animal, or property.
- F.** A person shall not dispose of any pesticide or pesticide container except according to label directions and all applicable laws.
- G.** Before a person disposes of any pesticide container, the person shall ensure that the following steps are taken:
1. After emptying each pesticide container other than a pressurized container, a paper bag, or a container designed for reuse with the same pesticide and described in R3-3-309, the container is triple rinsed and:
    - a. The rinsate is not discharged into the environment unless the discharge is performed according to label directions, and applicable laws;
    - b. The rinsate is placed into a service container or the application equipment for use on an application site, or the rinsate is disposed as allowed by the label;
    - c. Each container is punctured or crushed after it is triple rinsed to render the container incapable of holding any material; and
  2. A pesticide container that is a combustible bag or package is thoroughly emptied and either:



- a. Folded and tied into bundles or otherwise secured, or
- b. Enclosed securely in a secondary container that is labeled as containing pesticide residue.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-308 (Supp. 91-4). Former Section R3-3-308 renumbered to R3-3-304; new R3-3-308 renumbered from R3-3-313 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-309. Returnable, Reusable, Recyclable, and Reconditionable Pesticide Containers**

- A. A pesticide container, as defined in R3-3-101, labeled as a returnable, reusable container, or for which the label contains provisions for recycling or reconditioning, may be shipped according to label directions to a dealer, distributor, formulator, or a reconditioning or recycling facility that is operated in accordance with applicable laws.
- B. If a pesticide container is being held for shipment under subsection (A), the person holding the container shall, immediately after use, place it in a secure environment, inaccessible for any use other than shipment according to label directions.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-309 (Supp. 91-4). Former Section R3-3-309 renumbered to R3-3-305; new R3-3-309 renumbered from R3-3-314 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-310. Fumigation Use**

- A. An individual shall not perform a fumigation unless the individual is a certified fumigant applicator or a certified fumigant applicator is physically present in the immediate vicinity supervising the individual performing the fumigation.
- B. An individual storing, handling, or applying a fumigant shall follow all label requirements. If the label does not specify warning requirements, the individual shall comply with the following provisions:
  1. Before the fumigation begins, warning signs shall be posted in visible locations on or in the immediate vicinity of all entrances to and on every side of the space or area being fumigated.
  2. Warning signs shall be printed in red on white background and shall:
    - a. State the English and Spanish words "DANGER/PELIGRO";
    - b. Contain a skull and crossbones symbol if shown on the product label;
    - c. State "Area or commodity under fumigation. DO NOT ENTER/NO ENTRE"; and
    - d. State the name of the fumigant, the date and time the fumigant was injected, and the name, e-mail address, if applicable, and telephone number of the certified applicator.
- C. A certified fumigant applicator who engages in or who supervises another in the fumigation process shall ensure that the label requirements are followed, including requirements relating to the use of personal protective equipment and posting required warning signs.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-310 (Supp. 91-4). Former Section R3-3-310 renumbered to R3-3-306; new R3-3-310

made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-311. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-311 (Supp. 91-4). Section repealed by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-312. Renumbered****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-312 (Supp. 91-4). Section renumbered to R3-3-307 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-313. Renumbered****Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-313 (Supp. 91-4). Section renumbered to R3-3-308 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**R3-3-314. Renumbered****Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-314 (Supp. 91-4). Section renumbered to R3-3-309 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**ARTICLE 4. RECORDKEEPING AND REPORTING****R3-3-401. Pesticide Seller Records**

- A. A seller of any restricted use pesticide, device, or any pesticide sold for an agricultural purpose shall maintain all records showing the receipt, sale, delivery, or other disposition of the pesticide or device sold for at least two years from the date of sale. If a seller intends to change the location of the records, the seller shall file a signed statement with the Department before the move stating the new address.
- B. When any pesticide for agricultural purposes, or a restricted use pesticide regulated by the SPCC, is sold, delivered, or otherwise disposed of, a seller shall maintain the following records and information:
  1. Bill of lading or other similar record of the receipt of the pesticide at the selling establishment;
  2. Seller's dated sales receipt, delivery receipt, or invoice of the transaction, delivery, or other disposition of the pesticide;
  3. Name and address of the purchaser;
  4. Regulated grower permit number, or the SPCC license number of the purchaser, if applicable;
  5. State special local need registration number issued under Section 24 of FIFRA, if applicable;
  6. Emergency exemption permit number granted by the EPA under Section 18 of FIFRA, if applicable;
  7. Experimental use permit number, if applicable;
  8. Pesticide brand name and the EPA registration number; and
  9. Quantity of the pesticide sold to the purchaser.
- C. In addition to the information required in subsection (B), when a restricted use pesticide is sold, delivered, or otherwise disposed of for use by a certified applicator, a seller shall maintain records that contain the following information:
  1. Name and address of the residence or principal place of business of each person to whom the restricted use pesti-

- cide is sold, delivered, or otherwise disposed of, and any records required under R3-3-306;
2. Certified applicator's name, address, certification number, and the expiration date of the applicator's certification; and
  3. Categories in which the applicator is certified, if applicable.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-401 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### R3-3-402. Private Applicator Records; Restricted Use Pesticide

- A. Following an application to a field on an agricultural establishment of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator shall complete an application record on a form approved by the Department, that includes the following:
  1. Name of the private applicator and the applicator's certification number;
  2. Name and permit number of the seller;
  3. Name of the pesticide applied and its EPA registration number;
  4. Date and time of application;
  5. Name of regulated grower;
  6. Method of application;
  7. Crop name and the number of acres treated with the pesticide;
  8. Rate per acre of the active ingredient or formulation of the pesticide;
  9. Total volume of pesticide used per acre; and
  10. County, range, township, and section of the field that received the application.
- B. Following an application to a non-field of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator shall complete an application record on a form approved by the Department, that includes the following:
  1. The information requested under subsection (A)(1) through (A)(6);
  2. Item treated;
  3. Rate per item treated;
  4. Total volume used in the application; and
  5. Application site location by county, range, township, and section, or by physical address.
- C. A private applicator shall retain records required by this Section for at least two years from the date of the private application.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-402 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### R3-3-403. Bulk Release Report

- A. An applicator shall notify the Department at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but no later than three hours after the bulk release. If the bulk release is on a public highway or railway, or results in the death of an individual, the applicator shall immediately report the release to the Arizona Department of Public Safety Duty Office.

- B. Within 30 days after a bulk release, the applicator shall provide a written report to the Department listing all details of the release, including:
  1. Location and cause of the release;
  2. Disposition of the pesticide released;
  3. Measures taken to contain the bulk release;
  4. Name and EPA registration number of the pesticide released;
  5. Name, e-mail address, if applicable, and telephone number of the applicator's contact person;
  6. Date and time of the release;
  7. Specific environment into which the release occurred;
  8. Known human exposure to the pesticide, if observed; and
  9. Estimated amount of pesticide or pesticide mixture released.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-403 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### R3-3-404. Form 1080; Reports to the Department

- A. A custom applicator shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302.
- B. A regulated grower shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302, for application of a pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list, and is soil-applied, as defined in A.A.C. R18-6-101.
- C. A custom applicator or regulated grower may report continued pesticide applications and spot applications within the same reporting period on a single Form 1080.
- D. A custom applicator or a regulated grower shall submit the Form 1080 to the Department during the reporting period.
- E. A PCA or custom applicator shall retain a copy of each Form 1080 for at least two years from the date of the application.

#### Historical Note

Adopted effective January 17, 1989 (Supp. 89-1).  
Renumbered from R3-10-404 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### R3-3-405. Disposal Records; Agricultural Pesticide Concentrate

An applicator shall maintain the following information for two years:

1. EPA registration number, product name, active ingredient, and amount of agricultural pesticide concentrate disposed of;
2. Date of disposal;
3. Method of disposal; and
4. Specific location of the disposal site, or name of licensed disposal contractor.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

## ARTICLE 5. NONEXCLUSIVE LISTS OF SERIOUS, NONSERIOUS, AND DE MINIMIS VIOLATIONS

### R3-3-501. Serious Violations

The following is a nonexclusive list of acts that are serious violations if exposure to the pesticide produces a substantial probability that death or serious physical harm could result, unless the violator did not, and could not with the exercise of reasonable diligence, as

documented in the investigative record, know of such safety or human health risk, in which case the violation is nonserious:

1. Storing a pesticide or pesticide container improperly,
2. Dumping or disposing a pesticide or pesticide container in violation of this Chapter,
3. Leaving a pesticide or pesticide container unattended,
4. Spraying or applying a pesticide in a manner inconsistent with labeling instructions, or
5. Adulterating a pesticide.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-501 (Supp. 91-4). Amended by  
final rulemaking at 10 A.A.R. 276, effective March 6,  
2004 (Supp. 04-1).

### R3-3-502. Nonserious Violations

**A.** General violations. The following is a nonexclusive list of acts that are nonserious violations if the violation has a direct or immediate relationship to safety, health, or property damage, but does not constitute a de minimis violation or a serious violation, unless the violator did not, and could not with the exercise of reasonable diligence, know of such safety, health, or property damage risk in which case the violation is de minimis. A person shall not:

1. Improperly store, dump, or leave unattended any pesticide, pesticide container or part of a pesticide container, or service container.
2. Make a false statement or misrepresentation in an application for a permit, license, or certification, or a permit, license, or certification renewal.
3. Falsify any records or reports required to be made under Articles 2 through 4 of this Chapter.
4. Operate an aircraft or ground equipment in a faulty, careless, or negligent manner during the application of a pesticide.
5. Apply or instruct another to apply a pesticide so that it comes into contact with:
  - a. An individual;
  - b. An animal; or
  - c. Property, other than the application site being treated.
6. Use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with its pesticide label or labeling except as provided by R3-3-301(A).
7. Use, sell, apply, store, or instruct another to use, sell, apply, or store a pesticide:
  - a. That is not registered with the Department and the EPA, or
  - b. Outside the EPA authorized end-use provision if previously registered with the Department and the EPA and cancelled or suspended by the EPA.
8. Fail to provide accurate or approved labeling when registering a pesticide.

**B.** Seller violations. A seller shall not:

1. Sell pesticides without a valid seller's permit issued by the Department,
2. Provide a pesticide to a regulated grower who does not have a valid permit,
3. Fail to maintain records required under Articles 2 through 4 of this Chapter,
4. Fail to maintain complete sales records of restricted use pesticides required under Articles 3 and 4 of this Chapter,
5. Adulterate a pesticide,
6. Make false or misleading claims about a pesticide to any person,

7. Modify a label or labeling without proper authorization, or
8. Provide a pesticide to an unauthorized person.

**C.** PCA violations. A PCA shall not:

1. Act as a PCA without a valid agricultural pest control advisor license issued by the Department,
2. Make a false or fraudulent statement in any written recommendation about the use of a pesticide,
3. Make a recommendation regarding the use of a pesticide in a specific category in which the individual is not licensed, or
4. Make a written recommendation for the use of a pesticide in a manner inconsistent with its pesticide label or the exceptions as provided in R3-3-301(A).

**D.** Agricultural aircraft pilot violations. A pilot shall not apply a pesticide by aircraft without a valid agricultural aircraft pilot license issued by the Department.

**E.** Custom applicator violations. A custom applicator shall not:

1. Allow application equipment to be operated in a careless or reckless manner during the application of a pesticide,
2. Make a custom application without a valid custom applicator's license issued by the Department,
3. Make a custom application of a restricted use pesticide without a valid commercial applicator certification issued by the Department,
4. Allow an aircraft to be operated during the application of a pesticide by an individual who does not have a valid agricultural aircraft pilot license issued by the Department, or
5. Apply a pesticide without a written Form 1080 as prescribed in R3-3-302(A).

**F.** Regulated grower violations. A regulated grower shall not:

1. Purchase, apply, or use a pesticide without a valid regulated grower's permit issued by the Department; or
2. Apply a restricted use pesticide without being a certified applicator.

**G.** Certified applicator violations. A certified applicator shall not:

1. Allow the unsupervised application of a restricted use pesticide,
2. Fail to maintain complete records required under Articles 2 through 4 of this Chapter, or
3. Use a restricted use pesticide without a valid applicator certification issued by the Department.

**H.** Exemptions. The following incidents are not pesticide use violations under this Section:

1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

#### Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-502 (Supp. 91-4). Amended by  
final rulemaking at 10 A.A.R. 276, effective March 6,  
2004 (Supp. 04-1).

### R3-3-503. De minimis Violations

**A.** Seller violations. It is a de minimis violation if a seller:

1. Fails to record seller and regulated grower permit numbers on containers, cartons, and delivery tickets;
2. Fails to register the seller's representatives; or
3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.

- B.** PCA violations. It is a de minimis violation if a PCA:
1. Fails to put recommendations in writing as prescribed at R3-3-302(A),
  2. Fails to provide complete information required on written recommendations under R3-3-302, or
  3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.
- C.** Custom applicator violations. It is a de minimis violation if a custom applicator:
1. Fails to maintain complete records required under Articles 2 through 4 of this Chapter, or
  2. Fails to file reports as required under Articles 3 and 4 of this Chapter.
- D.** Regulated grower violations. It is a de minimis violation if a regulated grower:
1. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter; or
  2. Fails to file reports as required under Article 4 of this Chapter including whether the application includes a pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality ground-water protection list, and is soil-applied, as defined in A.A.C. R18-6-101.
- E.** Certified applicator violations. A certified applicator shall not fail to file reports as required under Articles 3 and 4 of this Chapter.
- F.** A third de minimis violation of the same or similar type from among those listed in subsections (A) through (E) in a three-year period is a nonserious violation.
- G.** Exemptions. The following incidents are not a violation under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
  2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
  3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-503 (Supp. 91-4). Amended by  
 final rulemaking at 10 A.A.R. 276, effective March 6,  
 2004 (Supp. 04-1).

**R3-3-504. Mitigation**

- A.** A violation listed in R3-3-501 is a nonserious violation if:
1. The violator did not, and could not with the exercise of reasonable diligence, know of the safety or human health risk involved; or
  2. The release is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.
- B.** A violation listed in R3-3-502 is a de minimis violation if:
1. The violator did not, and could not with the exercise of reasonable diligence, know of the safety, health, or property damage risk involved; or
  2. The release is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-504 (Supp. 91-4). Amended by  
 final rulemaking at 10 A.A.R. 276, effective March 6,

2004 (Supp. 04-1).

**R3-3-505. Unlisted Violations**

- A.** The Department shall classify a violation of Articles 2 through 4 of this Chapter or of A.R.S. Title 3, Chapter 2, Article 6 that is not listed in R3-3-501, R3-3-502, or R3-3-503 as a serious, nonserious, or de minimis violation depending upon the specific factual circumstances surrounding the violation.
- B.** A third de minimis violation of the same or similar type in a three-year period is a nonserious violation.

**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-505 (Supp. 91-4). Amended by  
 final rulemaking at 10 A.A.R. 276, effective March 6,  
 2004 (Supp. 04-1).

**R3-3-506. Penalty and Fine Point System**

- A.** The ALJ shall assess points, as applicable, against a violator for the violation of each pesticide rule or statute, or the Associate Director shall assess points, as applicable, for the violation of each pesticide rule or statute upon entering into a negotiated settlement as a result of an informal settlement conference under A.R.S. § 41-1092.06, in accordance with the following point system. From each of subsections (A)(1) through (6), one choice shall be selected, unless otherwise appropriate, based upon supporting evidence in the record of the proceeding before the ALJ or Associate Director. Points shall be totaled for the violation of each pesticide rule or statute.
1. Health effects.
    - a. No evidence of human exposure to pesticides and no evidence of the substantial probability of human exposure to pesticides. 0
    - b. Substantial probability of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant. 5-10
    - c. Evidence of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician's assistant. 11-20
    - d. Human exposure to pesticides that required treatment by a physician, nurse, paramedic, or physician's assistant, but which did not result in pesticide poisoning. 21-30
    - e. Human exposure to pesticides that required either hospitalization for less than 12 hours or treatment as an outpatient for five consecutive days or less by a physician, nurse, paramedic, or physician's assistant for pesticide poisoning. 31-45
    - f. Human exposure to pesticides that required either hospitalization for 12 hours or longer, or treatment as an outpatient for more than five consecutive days by a physician, nurse, paramedic, or physician's assistant for pesticide poisoning. 46-100
    - g. Human exposure to pesticides resulting in death from pesticide poisoning (serious violation unless otherwise documented in the investigative record). 101-180
  2. Environmental consequences and property damage.

Department of Agriculture – Environmental Services Division

(Select one or more as evidence indicates.)

- a. No evidence of substantial probability of environmental or property damage. 0
- b. Substantial probability of water contamination. 5-10
- c. Evidence of water source contamination. 11-20
- d. Substantial probability of soil contamination causing economic damage. 5-10
- e. Evidence of soil contamination causing economic damage. 11-20
- f. Substantial probability of nontarget bird kills. 5-10
- g. Evidence of nontarget bird kills. 11-20
- h. Substantial probability of nontarget fish kills. 5-10
- i. Evidence of nontarget fish kills. 11-20
- j. Nontarget kills involving game or furbearing animals as defined by A.R.S. § 17-101(B). 10-20
- k. Any property damage (nonserious violation only under A.R.S. § 3-361(4)). 10-20
- l. Air contamination causing official evacuation by federal, state, or local authorities. 10-20
- m. Killing one or more threatened or endangered species. 15-20
- n. Killing one or more domestic animals. 15-20

3. Culpability.

- a. Knowing. Knew or reasonably should have known by reasonable diligence of the prohibitions or restrictions that are the basis of the misconduct cited. 5-10
- b. Willfully. Actual knowledge of the prohibitions or restrictions but engages in misconduct. 20-50

4. Prior violations or citations. Violations or citations within three years from the date the violation was committed. (Select one or more as evidence indicates.)

Prior violation history	Current violation Non-serious	Current violation Serious
None	0	0
One or more De minimis	5	0
One Nonserious	10	5
One Nonserious, same or substantially similar to current violation	20	10
Two Nonserious	30	15
Two Nonserious, same or substantially similar to current violation	40	20
Three Nonserious	60	30
Three Nonserious, same or substantially similar to current violation	70	35

Additional Nonserious: same or substantially similar to current violation, points per each additional violation beyond three	10	5
One Serious	20	10
One Serious, same or substantially similar to current violation	40	20
Two Serious	60	30
Two Serious, same or substantially similar to current violation	80	40
Three Serious	120	60
Three Serious, same or substantially similar to current violation	140	70
Additional Serious: same or substantially similar to current violation, points per violation	20	10

5. The length of time a violation has been allowed to continue by the violator after notification by the Department.

- a. Less than one day. 0
- b. One day but less than one week. 1-10
- c. One week but less than one month. 11-20
- d. One month but less than two months. 21-30
- e. Two months or more. 31-40

6. Wrongfulness of conduct.

- a. Conduct resulting in a violation that does not cause any immediate damage to public health, safety, or property. 4-5
- b. Conduct resulting in a violation that the evidence establishes may have a substantial probability of an immediate effect upon public health, safety, or property. 6-8
- c. Conduct resulting in a violation that the evidence establishes had an immediate effect upon public health, safety, or property, but does not fall within subsection (6)(e). 9-10
- d. Conduct causing the substantial probability of serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 20-35
- e. Conduct resulting in serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 36-50

B. The ALJ or Associate Director, after determining points pursuant to subsection (A) shall assess a fine or penalty, or fine and penalty, for each violation in accordance with the following schedules:

- 1. Nonserious violation as defined under A.R.S. § 3-361.

- a. 53 points or less. A fine of \$50 to \$150; a penalty of one to three months' probation, with a condition of violating probation being one to three hours of continuing education.
  - b. 54 to 107 points. A fine of \$151 to \$300; a penalty of four to six months' probation with a condition of violating probation being one to 10 days' suspension.
  - c. 108 points or more. A fine of \$301 to \$500; a penalty of seven to 12 months' probation with a condition of violating probation being 15 to 30 days' suspension or revocation for a period of up to one year.
2. Serious violation as defined under A.R.S. § 3-361.
    - a. 46 points or less. A fine of \$1,000 to \$2,000; a penalty of one to three months' probation with a condition of violating probation being five to 10 days' suspension for a nonserious violation or 15 to 30 days' suspension for a serious violation.
    - b. 47 to 93 points. A fine of \$2,001 to \$5,000; a penalty of four to six months' probation with a condition of violating probation being 15 to 30 days' suspension for a nonserious violation and 31 to 90 days' suspension for a serious violation.
    - c. 94 points or more. A fine of \$5,001 to \$10,000; a penalty of probation for seven to 12 months with a condition of violating probation being two to four months' suspension for a nonserious violation and four to 12 months' suspension for a serious violation, or revocation for the remainder of the license year and an additional period of one to three years.
  3. The first de minimis violation is not considered a violation of probation.

**Historical Note**

Adopted effective September 13, 1989 (Supp. 89-3).  
 Renumbered from R3-10-506 (Supp. 91-4). Amended by  
 final rulemaking at 10 A.A.R. 276, effective March 6,  
 2004 (Supp. 04-1).

**ARTICLE 6. REPEALED****R3-3-601. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-601 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-602. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-602 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-603. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-603 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-604. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-604 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-605. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-605 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-606. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-606 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-607. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-607 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-608. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-608 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-609. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-609 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-610. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-610 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-611. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-611 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-612. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-612 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-613. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-613 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-614. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-614 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-615. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
 Renumbered from R3-10-615 (Supp. 91-4). Repealed  
 effective April 11, 1994 (Supp. 94-2).

**R3-3-616. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-616 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

**R3-3-617. Repealed****Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).  
Renumbered from R3-10-617 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

**ARTICLE 7. PESTICIDE****R3-3-701. Definitions**

In addition to the definitions in A.R.S. § 3-341, the following terms apply to this Article:

1. “Discontinuation” means when the registrant is no longer distributing a pesticide into Arizona.
2. “Pest” means, in addition to the pests declared in A.R.S. § 3-341(20), all birds, mammals, reptiles, amphibians, fish, slugs, snails, crayfish, roots, and plant parts.
3. “Official sample” means any sample of pesticide taken by the Associate Director, or the Associate Director’s agent, and designated as official.

**Historical Note**

Former rule 1; Former Section R3-3-01 repealed, new Section R3-3-01 adopted effective January 18, 1978 (Supp. 78-1). Amended effective December 29, 1978 (Supp. 78-6). Section R3-3-701 renumbered from R3-3-01 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-702. Pesticide Registration; Fee**

- A.** Registration. Any person registering a pesticide shall provide the following documents and information on a form provided by the Department with a nonrefundable \$100 fee for each pesticide, for each year of the registration:
1. The name, address, telephone number, and signature of the applicant;
  2. The name and address of the company appearing on the label;
  3. The Social Security number or tax identification number;
  4. The date of the application;
  5. The brand and name of the pesticide being registered;
  6. The EPA registration number of the pesticide if applicable;
  7. The analytical methods for any analyses of residues for the active ingredients of the pesticide, if requested by the Department;
  8. The toxicological and safety data, if requested by the Department;
  9. The name and telephone number of the person providing the toxicological and safety data;
  10. Two pesticide labels for any pesticide not previously registered;
  11. The material safety data sheet for each pesticide; and
  12. The license time-period option.
- B.** A pesticide registration is nontransferable, expires on December 31, and shall, at the option of the applicant, be valid for one or two years.
- C.** If an applicant elects a two-year pesticide registration, any additional pesticide registered during that two-year registra-

tion shall have the same registration end-date as any other pesticide currently registered by that applicant with the Department.

- D.** Notwithstanding subsection (A), during fiscal year 2011 and fiscal year 2012, a person registering a pesticide or renewing a pesticide registration shall pay a \$110 fee for each pesticide for each year of registration.

**Historical Note**

Former rule II; Former Section R3-3-02 renumbered and amended as Section R3-3-01, former Sections R3-3-11 and R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Amended subsection (C) effective January 1, 1979, subsection (D) effective January 1, 1982 (Supp. 78-6). Editorial corrections, subsection (B), paragraphs (6) through (9) (Supp. 79-6). Amended by deleting subsection (D) effective March 5, 1982 (Supp. 82-2). Section R3-3-702 renumbered from R3-3-02 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 1334, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1759, effective July 20, 2011 (Supp. 11-3).

**R3-3-703. General Provisions**

- A.** Discontinued pesticides. In addition to the requirements for discontinued pesticides established in A.R.S. § 3-351(K), any person holding a pesticide found in the channels of trade following the three-year discontinuation period shall be responsible to register or dispose of the pesticide.
- B.** Sampling.
1. The Associate Director, or the Associate Director’s agent, may sample, inspect, and analyze any pesticide distributed within the state to determine whether the pesticide is in compliance with the provisions of this Article and laws pertaining to this Article, or if a complaint has been filed with the Department.
  2. The analytical results of pesticide formulations as listed on a label shall comply with the allowed deviations listed in R3-3-704(B).
  3. The results of an official analyses of any pesticide not in compliance with the allowed deviations listed in R3-3-704(B) shall be sent to the Associate Director, to the registrant, or other responsible person. Upon request, and within 30 days, the Associate Director shall provide the registrant or other responsible person a portion of the noncompliant pesticide sample.
- C.** Prohibited acts. No person shall purchase a pesticide to repack the pesticide for distribution and sale without relabeling the repackaged container and complying with the provisions of the Act.

**Historical Note**

Section R3-3-703 renumbered from R3-3-03 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-704. Labels**

- A.** Within two weeks of a pesticide label revision, a registrant shall provide the Department with two pesticide labels that have been revised since the pesticide was originally registered.
- B.** The Associate Director may request a copy of a pesticide label if the label on file is older than three years.

**ALLOWED DEVIATIONS OF ANALYTICAL RESULTS FROM LABEL CLAIMS FOR ACTIVE INGREDIENTS IN  
PESTICIDE FORMULATIONS**

Claim %	HCV <sup>(1)</sup> %	HSD <sup>(2)</sup>	Allowed Deviations for “uniform” <sup>(3)</sup> samples		Allowed Deviations for “non-uniform” <sup>(4)</sup> samples	
			Claim - 3HSD	Claim + 6HSD	Claim - 4HSD	Claim + 8HSD
0.001	11.31	0.00011	0.00066	0.00168	0.00055	0.00191
0.005	8.88	0.00044	0.0037	0.0077	0.0032	0.0086
0.008	8.27	0.00066	0.0060	0.0120	0.0054	0.0133
0.01	8.00	0.00080	0.0076	0.0148	0.0068	0.0164
0.03	6.78	0.0020	0.024	0.042	0.022	0.046
0.06	6.11	0.0037	0.049	0.082	0.045	0.089
0.10	5.66	0.0057	0.083	0.13	0.077	0.145
0.40	4.59	0.018	0.34	0.51	0.33	0.55
0.80	4.14	0.033	0.70	1.00	0.67	1.06
1.0	4.00	0.040	0.88	1.24	0.84	1.32
2.0	3.60	0.072	1.78	2.43	1.71	2.58
4.0	3.25	0.13	3.61	4.78	3.48	5.04
6.0	3.05	0.18	5.45	7.10	5.27	7.47
10.0	2.83	0.28	9.15	11.70	8.87	12.26
15.0	2.66	0.40	13.80	17.39	13.40	18.19
20.0	2.55	0.51	18.47	23.06	17.96	24.08
25.0	2.46	0.62	23.15	28.70	22.54	29.93
30.0	2.40	0.72	27.84	34.32	27.12	35.75
35.0	2.34	0.82	32.54	39.92	31.72	41.56
40.0	2.30	0.92	37.25	45.51	36.33	47.35
45.0	2.26	1.01	41.96	51.09	40.94	53.12
50.0	2.22	1.11	46.67	56.66	45.56	58.88
60.0	2.16	1.30	56.11	67.78	54.82	70.37
70.0	2.11	1.48	65.57	78.86	64.09	81.82
80.0	2.07	1.65	75.04	89.93	73.38	93.24
90.0	2.03	1.83	84.51	100.97	82.68	104.63

(1) HCV(%) = Horwitz Coefficients of Variation =  $2 (1 - 0.5 \log (\text{claim \%}/100))$

(2) HSD = Horwitz Standard Deviation =  $(\text{Claim \%}) \text{HCV \%}/100$

(3) “Uniform” samples are homogeneous products which can be analyzed by established procedures. In most cases, validated analytical methods are available for these samples.

(4) “Non-uniform” samples are non-homogeneous samples or products which are difficult to sample or subsample. These products may not be uniformly mixed or packaged and include some special formulations like natural products. These types of samples include fertilizer containing pesticides, pesticides in pressurized containers, strips, plastic bands, collars, grain and other carriers. Natural product formulations such as rotenone and pyrethrin are also included in this group. When it is necessary to use methods which are not validated for accuracy, precision, and reproducibility in a specific matrix, the “non-uniform” guidelines may be used for allowed deviations. States may use judgment in placing a sample into the “uniform” or “non-uniform” category.

**Historical Note**

Former rule IV; Former Section R3-3-04 renumbered and amended as Section R3-3-01 effective January 18, 1978 (Supp. 78-1).  
Section R3-3-704 renumbered from R3-3-04 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-705. Renumbered**

**Historical Note**

Former rule V; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-705 renumbered from R3-3-05 (Supp. 91-4).

**R3-3-707. Renumbered**

**Historical Note**

Section R3-3-707 renumbered from R3-3-07 (Supp. 91-4).

**R3-3-706. Renumbered**

**Historical Note**

Former rule VI; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-706 renumbered from R3-3-06 (Supp. 91-4).

**R3-3-708. Renumbered**

**Historical Note**

Former rule VIII; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-708 renumbered from R3-3-08 (Supp. 91-4).



**R3-3-709. Renumbered****Historical Note**

Former Administrative rule 1; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-709 renumbered from R3-3-09 (Supp. 91-4).

**R3-3-710. Renumbered****Historical Note**

Section R3-3-710 renumbered from R3-3-10 (Supp. 91-4).

**R3-3-711. Renumbered****Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-11 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-711 renumbered from R3-3-11 (Supp. 91-4).

**R3-3-712. Renumbered****Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-712 renumbered from R3-3-12 (Supp. 91-4).

**ARTICLE 8. FERTILIZER MATERIALS****R3-3-801. Definitions**

In addition to terms and definitions in the Official Publication, which is incorporated by reference, on file with the Secretary of State, and does not include any later amendments, and the definitions in A.R.S. § 3-262, the following term applies to this Article:

“Official Publication” means the Official Publication of the Association of American Plant Food Control Officials, amended 1999. Copies may be purchased from NC Dept. of Agriculture, 4000 Reedy Creek Road, Raleigh, NC 27607-6468.

**Historical Note**

Former rule I; Former Section R3-3-21 repealed, former Section R3-3-24 renumbered and amended as Section R3-3-21 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-801 renumbered from R3-3-21 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-802. Licensure; Specialty Fertilizer Registration; Fees**

**A.** Commercial fertilizer license. Any person applying for a commercial fertilizer license, under A.R.S. § 3-272, to manufacture or distribute commercial fertilizer, shall provide the following information on the license application provided by the Department with a nonrefundable fee of \$125 for each year of the license:

1. The following information on the license application provided by the Department:
2. The name, title, and signature of the applicant;
3. The date of the application;
4. The distributor or manufacturer name, mailing address, telephone, and facsimile number;
5. The Social Security number or tax identification number;
6. The physical location, telephone, and facsimile number of the distributor or manufacturer, if different than subsection (A)(4);

7. The name, address, telephone, and facsimile number of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(4); and
8. The license time-period option.

**B.** A commercial fertilizer license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.

**C.** Specialty fertilizer registration.

1. Any manufacturer or distributor whose name appears on a specialty fertilizer label shall provide the following information to the Department with a nonrefundable fee of \$50 per brand and grade of specialty fertilizer for each year of the registration:
  - a. The name, address, telephone number, and signature of the applicant;
  - b. The name and address of the company on the label;
  - c. The date of the application;
  - d. The grade, brand, and name of the specialty fertilizer;
  - e. The current specialty fertilizer label; and
  - f. The registration time-period option.
2. A specialty fertilizer registration is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
3. If an applicant elects a two-year specialty fertilizer registration, any additional fertilizer registered during that two-year registration shall have the same registration end-date as other fertilizer currently registered by that applicant with the Department.

**D.** During fiscal year 2011, notwithstanding subsection (C)(1), the nonrefundable fee per brand and grade of specialty fertilizer is \$40.

**Historical Note**

Former rule II; Former Section R3-3-22 repealed, former Section R3-3-25 renumbered and amended as Section R3-3-22 effective January 12, 1978 (Supp. 78-1). Section R3-3-802 renumbered from R3-3-22 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3).

**R3-3-803. Tonnage Reports; Inspection Fee**

**A.** Quarterly tonnage reports and inspection fee.

1. The inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is 25¢ per ton. The tonnage shall be rounded to the nearest whole ton.
2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial fertilizer distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial fertilizer without a license as required under A.R.S. § 3-2009 shall pay all past due inspection fees and late penalties before a license is issued.
3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
  - a. If the inspection fee is being passed on to the purchaser:

- i. The assigned number and name of the currently licensed company;
    - ii. The commercial fertilizer by code or grade;
    - iii. The amount of commercial fertilizer in whole tons;
    - iv. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
    - v. The date of the report.
  - b. If the licensee pays tonnage fees for the distribution of a commercial fertilizer:
    - i. The grade;
    - ii. The amount of commercial fertilizer distribution by county;
    - iii. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
    - iv. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
    - v. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
    - vi. The date of the report.
- B. Estimated tonnage report.** A licensee may estimate the annual fertilizer material tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.
- 1. The licensee shall submit the estimated annual commercial fertilizer tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
    - a. The estimated tonnage of commercial fertilizer to be distributed;
    - b. The grade;
    - c. The amount of distribution by county;
    - d. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
    - e. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
    - f. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
    - g. The date of the report.
  - 2. The licensee shall pay at least \$8 per year. Adjustments for overestimates or underestimates for a licensee with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
  - 3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
  - 4. Overestimation of tonnage.
    - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
    - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.
- C. During fiscal year 2011, notwithstanding subsection (A)(1), the inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is \$0.10 per ton. The tonnage must be rounded to the nearest whole ton.**

**Historical Note**

Former rule III; Former Section R3-3-23 repealed, former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-803 renumbered from R3-3-23 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3).

**R3-3-804. General Provisions**

- A. Labeling.**
- 1. The grade numbers for primary nutrients that accompany the brand name of a commercial fertilizer shall be listed on the label in the following order: total nitrogen, available phosphate, and soluble potash. Other guaranteed nutrient values shall not be included with the grade numbers unless:
    - a. The guaranteed nutrient value follows the grade number;
    - b. The guaranteed nutrient value is immediately preceded with the name of the claimed nutrient to which it refers in the guaranteed analysis; and
    - c. The name printed on the label is as prominent as the numbers.
  - 2. The materials from which claimed nutrients are derived shall be listed on the label.
  - 3. No grade is required for fertilizer materials that claim no primary plant nutrient (i.e., 0-0-0).
  - 4. All guaranteed nutrients, except phosphate and potash, shall be stated in terms of elements.
  - 5. The label shall include the brand name of a fertilizer. Misleading or confusing numerals shall not be used in the brand name on the label.
  - 6. Fertilizer material not defined in the Official Publication may be used as fertilizer material if a definition or other method of analysis and agronomic data for fertilizer material is approved by the Associate Director.
- B. Claims and misleading statements.**
- 1. Any nutrient claimed as a fertilizer material shall be accompanied by a minimum guarantee for the nutrient. An ingredient shall not be claimed as a nutrient unless a laboratory method of analysis approved by the Associate Director exists for the nutrient.
  - 2. Scientific data supporting the claim of improved efficacy or increased productivity shall be made available for inspection to the Associate Director upon request.
  - 3. If the name of a fertilizer material is used as part of a fertilizer brand name, such as blood, bone or fish, the guaranteed nutrients shall be derived from or supplied entirely by the named fertilizer material.
  - 4. Fertilizer material subject to this Article and applicable laws shall not bear false or misleading statements.
- C. Deficiencies.**
- 1. The value of a nutrient deficiency in a fertilizer material shall take into account total value of all nutrients at the guaranteed level and the price of the fertilizer material at the time of sale.
  - 2. A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is subject to official action.
- D. All investigational allowances shall be conducted as prescribed in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.**

- E. Leased fertilizer material storage containers shall be clearly labeled with the following:
1. Grade numbers;
  2. Brand name, if applicable; and
  3. The statement, "Leased by (Name and address of lessor) to (Name and address of lessee)."
- C. During fiscal year 2011, notwithstanding subsection (A)(1), the inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is \$0.10 per ton. The tonnage must be rounded to the nearest whole ton.

**Historical Note**

Former rule IV; Former Section R3-3-24 renumbered and amended as Section R3-3-21, new Section R3-3-24 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-804 renumbered from R3-3-24 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-805. Repealed****Historical Note**

Former rule V; Former Section R3-3-25 renumbered and amended as Section R3-3-22, new Section R3-3-25 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-805 renumbered from R3-3-25 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-806. Repealed****Historical Note**

Former rule VI; Former Section R3-3-26 repealed, new Section R3-3-26 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-806 renumbered from R3-3-26 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-807. Repealed****Historical Note**

Former rule VII; Former Section R3-3-27 repealed, new Section R3-3-27 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-807 renumbered from R3-3-27 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-808. Repealed****Historical Note**

Former rule VIII; Former Section R3-3-28 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-28 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-808 renumbered from R3-3-28 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-809. Repealed****Historical Note**

Former rule IX; Former Section R3-3-29 repealed effective January 12, 1978 (Supp. 1). New Section R3-3-29 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-809 renumbered from R3-3-29 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-810. Repealed****Historical Note**

Former rule X; Former Section R3-3-30 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-30

adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-810 renumbered from R3-3-30 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-811. Repealed****Historical Note**

Former Administrative rule 1; Amended effective December 14, 1979 (Supp. 79-6). Section R3-3-811 renumbered from R3-3-31 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-812. Renumbered****Historical Note**

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Section R3-3-812 renumbered from R3-3-32 (Supp. 91-4).

**ARTICLE 9. COMMERCIAL FEED****R3-3-901. Definitions**

In addition to the feed ingredient definitions and feed terms in the Official Publication, which is incorporated by reference, on file with the Secretary of State, and does not contain any later amendments or editions, and the definitions in A.R.S. § 3-2601, the following terms apply to this Article:

1. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed. Commercial feed includes raw agricultural commodities distributed for use as feed or for mixing in feed when the commodities are adulterated within the meaning of section 3-2611. A.R.S. § 3-2601(2)
2. "Lot" means any distinct, describable, and measurable quantity that contains no more than 100 tons.
3. "Official Publication" means the Official Publication of the Association of American Feed Control Officials, effective January 1, 1999. Copies may be purchased from the Assistant Secretary/Treasurer, P.O. Box 478, Oxford, IN 47971.

**Historical Note**

Former rule I; Former Section R3-3-41 renumbered and amended as Section R3-3-42, new Section R3-3-41 adopted effective January 12, 1978 (Supp. 78-1). Amended effective April 13, 1978 (Supp. 78-2). Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-901 renumbered from R3-3-41 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-902. Licensure; Fee; Ammoniation**

- A. Any person applying for a commercial feed license, under A.R.S. § 3-2609, to manufacture or distribute commercial feed shall provide the following information and a nonrefundable fee of \$10 for each year of the license:
1. A copy of the label of each commercial feed product intended for distribution within the state or not already filed by the applicant with the Department; and
  2. The following information on the license application provided by the Department:
    - a. The name, title, and signature of the applicant;
    - b. The distributor or manufacturer name, mailing address, telephone, and facsimile number;
    - c. The social security number or tax identification number;

- d. The date of the application;
  - e. The physical location, telephone, and facsimile number of the distributor or manufacturer, if different than subsection (A)(2)(b);
  - f. The name, address, telephone, and facsimile number of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(2)(b); and
  - g. The license time-period option.
- B.** A commercial feed license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
- C.** Ammoniation. Any person who ammoniates feed or feed material for distribution or sale shall obtain a commercial feed license and is responsible for all testing, labeling, or other requirements pertaining to commercial feed, unless the feed is ammoniated on the premises of the person using the ammoniated feed.

#### Historical Note

Former rule II; Former Section R3-3-42 renumbered and amended as Section R3-3-43, former Section R3-3-41 renumbered and amended as Section R3-3-42 effective January 12, 1978 (Supp. 78-1). Section R3-3-902 renumbered from R3-3-42 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### R3-3-903. Tonnage Reports; Inspection Fee

- A.** Quarterly tonnage report and inspection fee.
1. The inspection fee for all commercial feed sold or distributed in Arizona is 20¢ per ton. The tonnage shall be rounded to the nearest whole ton.
  2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial feed distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial feed without a license as required under A.R.S. § 3-2609 shall pay all past due inspection fees and late penalties before a license is issued.
  3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
    - a. If the inspection fee is being passed on to the purchaser:
      - i. The assigned number and name of the currently licensed company;
      - ii. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
      - iii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
      - iv. The date of the report.
    - b. If the licensee pays a tonnage fee for the distribution of a commercial feed:
      - i. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;

- ii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
- iii. The date of the report.

- B.** Estimated tonnage report. A licensee may estimate the annual commercial feed tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.
1. The licensee shall submit the estimated annual commercial feed tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
    - a. The estimated tonnage of commercial feed to be distributed;
    - b. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
    - c. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
    - d. The date of the report.
  2. The licensee shall pay at least \$8 per year. Adjustments for overestimates or underestimates for licensees with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
  3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
  4. Overestimation of tonnage.
    - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
    - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.

#### Historical Note

Former rule III; Former Section R3-3-43 renumbered and amended as Section R3-3-44, former Section R3-3-42 renumbered and amended as Section R3-3-43 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-903 renumbered from R3-3-43 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### R3-3-904. Milk and Milk Products Decharacterized for Use as Commercial Feed

- A.** A person shall not sell, offer for sale, store, transport, receive, trade or barter, any milk or milk product for commercial feed unless the milk or milk product:
1. Meets Grade A milk standards as specified in A.A.C. R3-2-802;
  2. Is produced as prescribed in A.A.C. R3-2-805; or
  3. Is decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act and the decharacterization:
    - a. Does not affect nutritive value; and
    - b. Matches the color on the Color Requirement card, incorporated by reference and on file with the Office of the Secretary of State. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the Environmental Services

Division Office, Arizona Department of Agriculture,  
1688 West Adams, Phoenix, Arizona 85007.

- B. Labeling.** All milk or milk product commercial feed labels shall be approved by the Associate Director before use.
1. The principal display panel of a decharacterized milk or milk product commercial feed container shall prominently state “WARNING - NOT FOR HUMAN CONSUMPTION” in capital letters. The letters shall be at least 1/4 inch on containers of 8 oz. or less and at least 1/2 inch on all other containers.
  2. The container label shall also bear the statement “This product has not been pasteurized and may contain harmful bacteria” in letters at least 1/8 inch in height.
- C.** Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and clearly identified “Not for Human Consumption.”

#### Historical Note

Former rule IV; Former Section R3-3-44 repealed, former Section R3-3-43 renumbered and amended as Section R3-3-44 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-904 renumbered from R3-3-44 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### **R3-3-905. Labeling; Precautionary Statements**

- A. Ingredient statement.**
1. Each ingredient or collective term for the grouping of ingredients not defined in the Official Publication shall be a common name.
  2. All labels for commercial feed and customer-formula feed containing cottonseed or a cottonseed product shall separately list the ingredients in the ingredient statement in addition to any collective term listed.
- B. Labeling and expression of guarantees.**
1. All labeling and expression of guarantees shall comply with the commercial feed-labeling guide, medicated commercial feed labeling, and expression of guarantees requirements prescribed in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.
  2. The label shall include the brand or product name, and shall indicate the intended use of the feed. The label shall not contain any false or misleading statements.
  3. Directions for use and precautionary statements.
    - a. All labeling of whole cottonseed, commercial feed, and customer-formula feed containing any additive (including drugs, special purpose additives, or non-nutritive additives) shall clearly state its safe and effective use. The directions shall not require special knowledge of the purpose and use of the feed.
    - b. Directions for use and precautionary statements shall be provided for feed containing non-protein nitrogen as specified in R3-3-906.
    - c. All whole cottonseed or commercial feed, and customer-formula feed delivered to the consumer shall be accompanied by an accurate label, invoice, weight ticket or other documentation approved by the Department. The documentation shall be left with the consumer and shall contain the following:

- i. “This feed contains 20 or less ppb aflatoxin and may be fed to any animal;” or
  - ii. “WARNING: This feed contains more than 20 ppb but not more than 300 ppb aflatoxin and shall not be fed to lactating animals whose milk is intended for human consumption.”
- d. A distributor of whole cottonseed or cottonseed product intended for further processing, planting seed, or for any other purpose approved by the Director, shall document in writing to the Department that:
- i. The lot of whole cottonseed or cottonseed product will not be used as commercial feed until the lot is tested and compliant with all state laws; and
  - ii. The documentation prescribed in subsection (B)(3)(c) is not required.
- e. The distributor shall maintain the documentation for one year.
- f. The lot of whole cottonseed or cottonseed product shall be labeled as follows: “WARNING: This material has not been tested for aflatoxin and shall not be distributed for feed or fed to any animal until tested and brought into full compliance with all state laws.”

#### Historical Note

Former rule V; Former Section R3-3-45 repealed, new Section R3-3-45 adopted effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-905 renumbered from R3-3-45 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### **R3-3-906. Non-protein Nitrogen**

- A.** Urea and other non-protein nitrogen products are acceptable ingredients in commercial feed for ruminant animals as a source of equivalent crude protein.
1. If commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen or if the equivalent crude protein from all forms of non-protein nitrogen exceeds 1/3 of the total crude protein, the label shall include directions for the safe use of the feed and the following precautionary statement: “Caution: Use as Directed.”
  2. The directions for use and the precautionary statement shall be printed and placed on the label so that an ordinary person under customary conditions of purchase and use can read and understand the directions.
- B.** Non-protein nitrogen products are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- C.** A medicated feed label shall contain feeding directions or precautionary statements, or both, with sufficient information to ensure that the feed is properly used.

#### Historical Note

Former rule VI; Former Section R3-3-46 repealed, new Section R3-3-46 adopted effective January 12, 1978 (Supp. 78-1). Amended effective January 29, 1979 (Supp. 79-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-906 renumbered from R3-3-46 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective

November 3, 1999 (Supp. 99-4).

**R3-3-907. Repealed**

**Historical Note**

Former rule VII; Former Section R3-3-47 repealed, former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). Amended by adding subsection (F) effective July 20, 1984 (Supp. 84-4). Section R3-3-907 renumbered from R3-3-47 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

**R3-3-908. Repealed**

**Historical Note**

Former rule VIII; Former Section R3-3-48 repealed, new Section R3-3-48 adopted effective January 12, 1978 (Supp. 78-1). Amended for spelling correction, subsection (E), effective January 29, 1979 (Supp. 79-1). Amended by adding subsection (J) effective July 20, 1984 (Supp. 84-4). Section R3-3-908 renumbered from R3-3-48 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

**R3-3-909. Repealed**

**Historical Note**

Former rule IX; Former Section R3-3-49 repealed, new Section R3-3-49 adopted effective Jan. 12, 1978 (Supp. 78-1). Amended by adding subsection (D) effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-909 renumbered from R3-3-49 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-910. Drug and Feed Additives**

**A. Drug and feed additive approval.**

1. Before a label is approved by the Associate Director for commercial feed containing additives (including drugs, other special purpose additives, or non-nutritive additives), the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions if the material is not recognized as a commercial feed.
2. If a complaint has been filed with the Department, the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions.

**B. Evidence of safety and efficacy of a commercial feed may be:**

1. If the commercial feed containing additives conforms to the requirements of "Food Additives Permitted in Feed and Drinking" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions; or
2. If the commercial feed is a substance generally recognized as safe and is defined in the Official Publication or listed as a "Substances Generally Recognized as Safe in Animal Feeds" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

**Historical Note**

Former rule X; Former Section R3-3-50 repealed, new Section 3-3-50 adopted effective January 12, 1978 (Supp. 78-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-910 renumbered from R3-3-50 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective

November 3, 1999 (Supp. 99-4).

**R3-3-911. Repealed**

**Historical Note**

Former rule XI: Former Section R3-3-51 repealed, new Section R3-3-51 adopted effective January 12, 1978 (Supp. 78-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-911 renumbered from R3-3-51 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

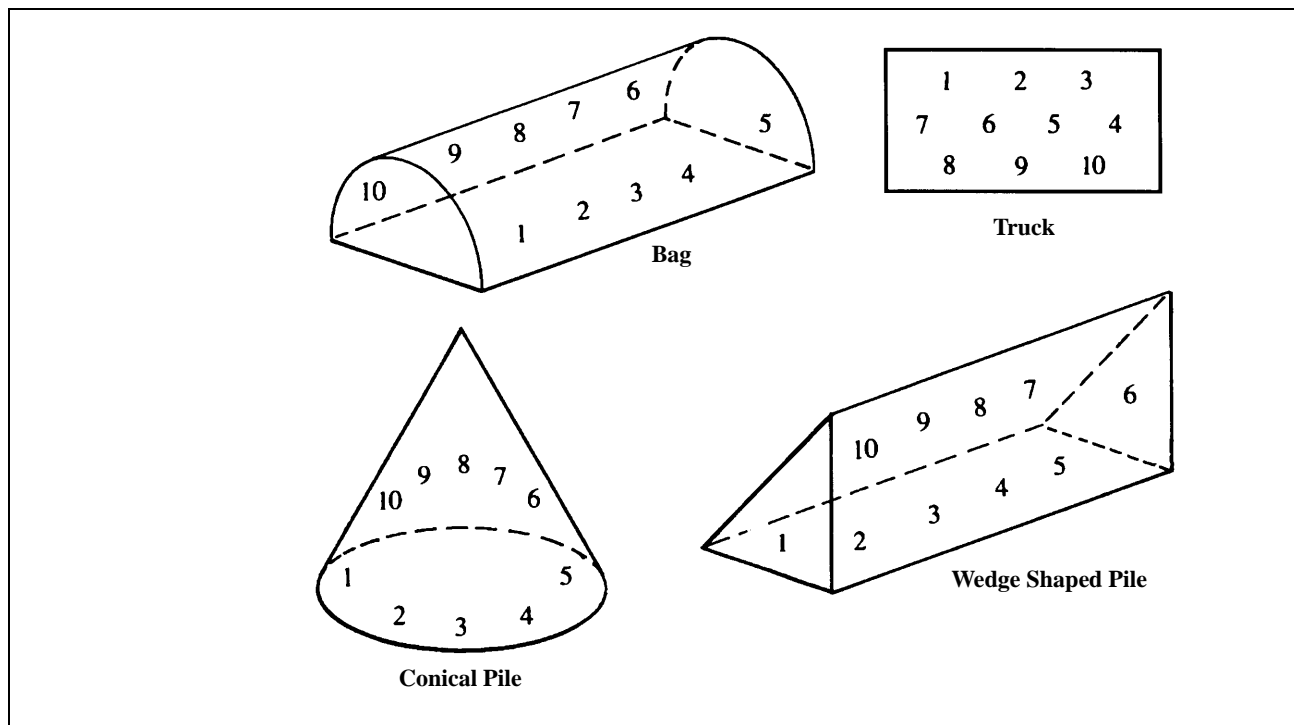
**R3-3-912. Repealed**

**Historical Note**

Former rule XII: Former Section R3-3-52 repealed. New Section R3-3-52 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-912 renumbered from R3-3-52 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**R3-3-913. Sampling Methods**

- A. Sampling commercial feed.** The methods of sampling commercial feed shall comply with the procedures established in 4.1.01, Official Method 965.16 Sampling of Animal Feed, in the "Official Methods of Analysis of AOAC International," 16th Edition, 1997, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter. Copies may be purchased from AOAC International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417.
- B. Sampling whole cottonseed.**
  1. Sample size - A gross sample not less than 30 pounds shall be taken from a lot. The gross sample shall consist of not less than 10 probes evenly spaced or 10 stream sample passes taken following the procedure prescribed in subsection (B)(4)(b).
  2. Sample container - The sample container shall consist of a clean cloth, burlap, or paper or plastic mesh bags. The sample shall be delivered to the laboratory within 48 hours (excluding weekends and holidays), stored in a dry, well-aerated location, and the results of the analysis reported by a certified laboratory within five working days from receipt of sample.
  3. Sampling equipment. Sampling equipment includes:
    - a. Scale, graduated in one-half pound increments, and any of the following:
    - b. Corkscrew trier, approximately 50 inches in length and capable of taking at least a three-pound sample,
    - c. Pneumatic probe sampler such as the "Probe-a-Vac" pneumatic sampler,
    - d. Stream sampler: A container at least 8 inches x 5 inches x 5 1/2 inches attached to a pole that enables the sampler to pass the container through falling streams of cottonseed,
    - e. Automatic stream samplers or other sampling equipment if scientific data documenting its ability to obtain a representative sample is approved by the Associate Director,
    - f. Shop-vac 1.5 hp vacuum system capable of holding 12 gallons, modified to hold a 15 ft. length of vacuum hose attached to a 13 ft. length of 3/4 inch PVC pipe.
  4. Sampling procedure.
    - a. If a corkscrew trier or Probe-a-Vac sampler is used, at least 10 evenly spaced probes shall be taken per lot. The probed samples shall be taken according to the following patterns:



The probes shall penetrate at least 50 inches, and at least two of the 10 probes per sample shall reach the bottom of the lot being sampled. The probe shall be inserted at an angle perpendicular to the face of the lot.

- b. If a shop-vac system is used, at least 15 evenly spaced probes shall be taken per lot. The sampling patterns specified in subsection (B)(4)(a) shall be modified to allow for the additional samples.
- c. Stream samples shall be taken while the cottonseed is being discharged, if there is a uniform discharge flow over a set period of time. The sample shall consist of at least 10 evenly timed and spaced passes through the discharge flow, resulting in the sample size specified in subsection (B)(1).
- d. The gross sample shall be weighed to the nearest 1/2 pound but shall not be reduced in size. If any gross sample does not meet the minimum 30 pound weight, that gross sample shall be discarded and the sampling procedure repeated from the beginning. If the shop-vac gross sample is not at least 10 pounds, the sample shall be discarded and the sampling procedure repeated from the beginning.
- e. The Associate Director shall approve any modified sampling procedure if scientific data is provided that documents that representative samples will be obtained through the modified sampling procedure.

#### Historical Note

Former Administrative Rule 1. Former Section R3-3-53 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-53 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Amended as an emergency effective October 11, 1978, pursuant to A. R. S. § 41-1003,

valid for only 90 days (Supp. 78-5). New Section R3-3-53 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-913 renumbered from R3-3-53 (Supp. 91-4). Patterns omitted in Supp. 98-4 under subsection (C)(4)(a) have been corrected to reflect filed rules (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### R3-3-914. Repealed

##### Historical Note

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). New Section R3-3-54 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R3-3-54 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-914 renumbered from R3-3-54 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### R3-3-915. Repealed

##### Historical Note

Adopted effective December 14, 1979 (Supp. 79-6). Section R3-3-915 renumbered from R3-3-55 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

#### R3-3-916. Repealed

##### Historical Note

Adopted effective July 20, 1994 (Supp. 84-4). Section R3-3-916 renumbered from R3-3-56 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

**ARTICLE 10. AGRICULTURAL SAFETY****R3-3-1001. Definitions**

In addition to the definitions set forth in A.R.S. § 3-3101 the following terms apply to this Article:

1. “Agricultural emergency” means a sudden occurrence or set of circumstances that:
  - a. An agricultural employer could not have anticipated and over which the agricultural employer has no control,
  - b. Requires entry into a treated area during a restricted-entry interval, and
  - c. No alternative practices would prevent or mitigate a substantial economic loss.
2. “Agricultural employer” means any person, including a farm labor contractor, who hires or contracts for the services of workers for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of, or is responsible for, the management or condition of an agricultural establishment that uses agricultural workers.
3. “Agricultural establishment” means any farm, forest, nursery, or greenhouse using pesticide products that are required by label to be used in accordance with the federal worker protection standards. An establishment is exempt from the requirements of this Article if the establishment uses only products that do not have a federal worker protection statement on the label.
4. “Agricultural plant” means any plant grown or maintained for commercial or research purposes and includes:
  - a. Food, feed, and fiber plants;
  - b. Trees;
  - c. Turfgrass;
  - d. Flowers, shrubs;
  - e. Ornamentals; and
  - f. Seedlings.
5. “Chemigation” means the application of pesticides through irrigation systems.
6. “Consultation” means an on-site visit by, or a response to an inquiry from, the Agricultural Consulting and Training program personnel, pursuant to A.R.S. § 3-109.01, to review agricultural practices and obtain documented non-regulatory advice to help ensure compliance with the issues addressed.
7. “*De minimis violation*” means a condition or practice which, although undesirable, has no direct or immediate relationship to safety or health (A.R.S. § 3-3101(2)).
8. “Early entry” means any worker or handler entering a treated area after a pesticide is applied to a location on the agricultural establishment and before the expiration of the restricted-entry interval.
9. “Farm labor contractor” means any person who hires or contracts for the services of workers for any type of compensation, to perform activities related to the production of agricultural plants, but does not own or is not responsible for, the management or condition of an agricultural establishment.
10. “Flagger” means a person who indicates an aircraft spray swath width from the ground.
11. “Gravity based penalty” means an unadjusted penalty calculated for each violation, or combined or grouped violations, by adding the gravity factor to the other penalty factors.
12. “Handler” means any person, including a self-employed person:
  - a. Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which this Article applies and who does any of the following:
    - i. Mixing, loading, transferring, or applying pesticides;
    - ii. Disposing of pesticides, or non-triple rinsed or equivalent pesticide containers;
    - iii. Handling open containers of pesticides;
    - iv. Acting as a flagger;
    - v. Cleaning, adjusting, handling, or repairing any part of mixing, loading, or application equipment that may contain pesticide residue;
    - vi. Assisting with the application of pesticides;
    - vii. Entering a greenhouse or other enclosed area after the pesticide application and before either the inhalation exposure level listed in the labeling is reached or any of the ventilation criteria in R3-3-1002 or in the labeling has been met to operate ventilation equipment, adjust or remove coverings used in fumigation, or monitor air levels.
    - viii. Entering a treated area outdoors after pesticide application of any soil fumigant to adjust or remove soil coverings.
    - ix. Performing tasks as a pest control advisor during any pesticide application.
  - b. The term handler does not include:
    - i. Any person who handles only pesticide containers that are emptied or cleaned according to pesticide product labeling instructions or, in the absence of labeling instructions, are triple-rinsed or its equivalent;
    - ii. Any person who handles only pesticide containers that are unopened; or
    - iii. Any person who repairs, cleans, or adjusts the pesticide application equipment at an equipment maintenance facility, after the equipment is decontaminated, and is not an employee of the handler employer.
13. “Handler employer” means any person who is self-employed as a handler or who employs a handler, for any type of compensation.
14. “*Nonserious violation*” means a condition or practice in a place of employment which does not constitute a serious violation but which violates a standard or rule and has a direct or immediate relationship to safety or health, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the condition or practice (A.R.S. § 3-3101(6)).
15. “Personal protective equipment” means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.
16. “Pest control advisor” means a crop advisor, as defined in 40 CFR 170, who assesses pest numbers or damage, pesticide distributions, or the status or requirements to sustain the agricultural plants. The term does not include a person who performs hand-labor tasks or handling activities.
17. “Pesticide” means:
  - (a) any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.



- (b) *any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant* (A.R.S. § 3-341(21)).
18. “Restricted-entry interval” means the time after the completion of a pesticide application during which entry into a treated area is restricted as indicated by the pesticide product label.
19. “Restricted use pesticide” means a pesticide classified as such by the United States Environmental Protection Agency (A.R.S. § 3-361(8)).
20. “Serious violation” means a condition or practice in a place of agricultural employment which violates a standard or rule or section 3-3104, subsection (A) and produces a substantial probability that death or serious physical harm could result, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of such condition or practice (A.R.S. § 3-3101(10)).
21. “Substantial economic loss” means a loss in yield greater than expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by an agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement is not considered in determining the loss.
22. “Treated area” means any area to which a pesticide is being directed or has been directed.
23. “Worker” means any person, including a self-employed person, who is employed for any type of compensation and who performs activities relating to the production of agricultural plants on an agricultural establishment. The requirements of this Article do not apply to any person employed by a commercial pesticide-handling establishment who performs tasks as a pest control advisor.

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1001 renumbered from R3-8-201 (Supp. 91-4).  
Amended effective March 3, 1995 (Supp. 95-1).  
Amended effective October 8, 1998 (Supp. 98-4).

### R3-3-1002. Worker Protection Standards

Worker protection regulations shall be as prescribed in 40 CFR 170, excluding 40 CFR 170.130 and 170.230, as amended July 1, 2002. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1002 renumbered from R3-8-202 (Supp. 91-4).  
Section repealed, new Section adopted effective March 3, 1995 (Supp. 95-1). R3-3-1002 renumbered to R3-3-1003; new Section R3-3-1002 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

### R3-3-1003. Pesticide Safety Training

#### A. Training exemptions.

- Handler. A handler who currently meets one of the following conditions is exempt from the requirements under subsection (D)(1) and (D)(3):
  - Certified as an applicator of restricted use pesticides under R3-3-208,
  - Certified as a trainer under this Section, or
  - Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.
- Worker. A worker who meets one of the following conditions is exempt from the requirements under subsections (C), (D)(1), and (D)(2):

- Certified as an applicator of restricted use pesticides under R3-3-208,
- Holds a current handler card under subsection (D)(4),
- Certified as a trainer under this Section, or
- Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.

#### B. Training verification.

- Handler. The handler employer shall verify, before the handler performs a handling task, that the handler:
  - Meets a condition listed in subsection (A)(1); or
  - Received pesticide safety training during the last three years, excluding the month in which the training was completed.
- Worker. The agricultural employer shall verify that a worker:
  - Meets a condition listed in subsection (A)(2); or
  - Received pesticide safety training during the last five years before allowing a worker entry into an area:
    - To which a pesticide was applied during the last 30 days, or
    - For which a restricted-entry interval for a pesticide was in effect during the last 30 days.
- The agricultural employer and the handler employer, or designee, shall verify that a training exemption claimed in subsection (A)(1) or (A)(2) is valid by reviewing the appropriate certificate issued by the Department, the EPA, or an EPA-approved program.
- The agricultural employer and the handler employer, or designee, shall visually inspect the handler’s or worker’s EPA-approved Worker Protection Standard training verification card to verify that the training requirements prescribed in subsections (B)(1) or (B)(2) are met. If the employer believes that a worker or handler training verification card is valid, the verification requirement of subsection (B)(1) or (B)(2) is satisfied.
- An EPA-approved Worker Protection Standard training verification card is valid if issued:
  - As prescribed in this Section, or
  - By a program approved by the Department, and
  - Within the time-frames prescribed in subsection (B)(1) or (B)(2).
- The agricultural employer shall provide a worker who does not possess the training required in subsection (B)(2) with the pesticide safety information prescribed in subsection (C) and the pesticide safety training prescribed in subsection (D)(1) and (D)(2). The agricultural employer shall provide pesticide safety training to a worker before:
  - The worker enters a treated area on an agricultural establishment during a restricted-entry interval to perform early-entry activities; or
  - The sixth day that the worker enters an area on the agricultural establishment if a pesticide has been applied within the past 30 days, or a restricted-entry interval for the pesticide has been in effect within the past 30 days.

#### C. Pesticide safety information.

- The agricultural employer shall provide pesticide safety information to a worker who does not meet the training requirements of subsection (B) before the worker enters an area on an agricultural establishment if, within the last 30 days a pesticide has been applied or a restricted-entry interval for the pesticide has been in effect. The agricultural employer shall provide safety information in a man-

ner that the worker can understand. The safety information shall include the following:

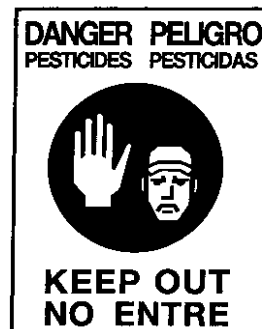
- a. Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications;
- b. Workers may prevent pesticides from entering their bodies by:
  - i. Following directions or signs, or both, about keeping out of a treated or restricted area;
  - ii. Washing before eating, drinking, chewing gum or using tobacco products, or using the toilet;
  - iii. Wearing work clothing that protects the body from pesticide residue;
  - iv. Washing or showering with soap and water, shampooing hair, and putting on clean clothing after work;
  - v. Washing work clothes separately from other clothes before wearing; and
  - vi. Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body, and as soon as possible, showering, shampooing, and changing into clean clothes.

2. The agricultural employer shall document compliance by obtaining the employee's signature or other verifiable means to acknowledge the employee's receipt of the information required in subsection (C)(1).

**D. Pesticide safety training.** The agricultural employer or handler employer shall ensure that pesticide safety training is provided before the sixth day of entry into a pesticide-treated area. The pesticide safety training program shall be in a language easily understood by a worker or handler, using a translator if necessary. The program shall relate solely to pesticide safety training. Information shall be presented either orally from written material or in an audiovisual manner and shall contain non-technical terms. The trainer shall respond to questions from attendees.

1. General pesticide safety training. The following pesticide safety training shall be presented to either a handler or a worker:
  - a. Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and increased sensitivity;
  - b. Routes by which pesticides can enter the body;
  - c. Signs and symptoms of common types of pesticide poisoning;
  - d. Emergency first aid for pesticide injuries or poisonings;
  - e. How to obtain emergency medical care;
  - f. Routine and emergency body decontamination procedures, including emergency eyeflushing techniques;
  - g. Warnings about taking pesticides or pesticide containers home; and
  - h. How to report violations to the Department, including providing the Department's toll-free pesticide hotline telephone number.
2. Worker training. In addition to the information in subsection (D)(1), a pesticide safety training program for a worker shall include the following:
  - a. Where and in what form pesticides may be encountered during work activities;
  - b. Hazards from chemigation and drift;
  - c. Hazards from pesticide residue on clothing; and
  - d. Requirements of this Article designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including:
    - i. Application and entry restrictions,

- ii. Posting of warning signs,
- iii. Oral warning,
- iv. The availability of specific information about applications,
- v. Protection against retaliatory acts, and
- vi. The design of the following warning sign:



3. Handler training. In addition to the information in subsection (D)(1), a pesticide safety training program for a handler shall include the following:
  - a. Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards;
  - b. Need for and appropriate use of personal protective equipment;
  - c. Prevention, recognition, and first aid treatment of heat-related illness;
  - d. Safety requirements of handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
  - e. Environmental concerns such as drift, runoff, and potential impact on wildlife; and
  - f. Requirements of this Article applicable to handler employers for the protection of handlers and other individuals, including:
    - i. The prohibition against applying pesticides in a manner that will cause contact with workers or other individuals,
    - ii. The requirement to use personal protective equipment,
    - iii. The provisions for training and decontamination, and
    - iv. Protection against retaliatory acts.
4. The trainer shall issue an EPA-approved Worker Protection Standard training verification card to each handler or worker who successfully completes training, and shall maintain a record in indelible ink containing the following information:
  - a. Name and signature of the trained worker or handler;
  - b. Training verification card number;
  - c. Issue and expiration date of the training verification card;
  - d. Social security number or a unique trainer-assigned identification number of the worker or handler;
  - e. Name and signature of the trainer; and
  - f. Address or location of where the training occurred, including city, county, and state.

**E. Trainer requirements.**

1. A person applying for pesticide safety trainer certification shall:

- a. Complete the Department pesticide safety training program established in subsection (D)(1) through (D)(3); or
  - b. Hold a current PCA license or restricted use certification, issued by the Department for a PCA or certified applicator, as prescribed under R3-3-207 or R3-3-208.
  2. An applicant shall submit a signed and dated affidavit to the Department verifying that each worker or handler will be trained according to the requirements of subsection (D). The affidavit shall include the applicant's:
    - a. Name, address, e-mail address, and telephone and fax numbers, as applicable; and
    - b. Social security number.
  3. Trainer certification is:
    - a. Nontransferable; and
    - b. Is valid for three years from the date issued under subsection (E)(1)(a), excluding the month in which the trainer was certified, and is renewable upon completion of the Department pesticide safety training program established in subsection (D)(1) through (D)(3); or
    - c. Is valid initially for one year from the date issued under subsection (E)(1)(b) if the PCA license or restricted use certification remain current, and is renewable for three years upon completion of the pesticide safety training program established in subsection (D)(1) through (D)(3).
  4. A trainer shall maintain the records required in subsection (D)(4) for five years for workers, and three years for handlers, excluding the month in which the verification card was issued.
  5. Upon request by the Department, the trainer shall make available worker and handler records prescribed in subsection (D)(4) for inspection and copying by the Department.
  - F. A trainer shall permit the Assistant Director or designee to enter a place where worker safety training is being presented to observe and question trainers and attendees to determine compliance with the requirements of this Section.
  - G. The Department may suspend, revoke, or deny trainer certification if any of the following occur:
    1. Failing to follow the worker and handler training requirements prescribed in subsections (D)(1) through (D)(3);
    2. Failing to issue training verification cards to workers and handlers as prescribed in subsection (D)(4);
    3. Failing to maintain the training information prescribed in subsection (E)(4);
    4. Failing to fulfill the requirements of the affidavit as prescribed in subsection (E)(2); or
    5. Having had a similar certification revoked, suspended, or denied in any jurisdiction within the last three years.
1. The location of the agricultural establishment's central posting site; and
  2. The restrictions on entering the treated area as specified in 40 CFR 170.120(d), if a treated area is within 1/4 mile of where workers will be working and the treated area is not posted as allowed or required in 40 CFR 170.120(a), (b) and (c).
- B.** The farm labor contractor shall:
1. Post or provide the worker in writing, with the information in 40 CFR 170.122, or shall post or provide the worker in writing, the specific location of the central posting site for each agricultural establishment on which the worker will be working;
  2. Provide the worker with restrictions on entering a treated area as specified in 40 CFR 170.120(d) if the treated area on the agricultural establishment where a worker will be working is within 1/4 mile of where the worker is working, and the treated area and is not posted as allowed or required in 40 CFR 170.120(a), (b) and (c).

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1004 renumbered from R3-8-204 (Supp. 91-4). Amended effective October 8, 1998 (Supp. 98-4).

#### R3-3-1005. Container Used For Mixing or Applying Pesticides

- A.** All openings on containers used for applying pesticides shall be equipped with covers that prevent splashes and spills.
- B.** All containers shall:
1. Be translucent, or
  2. Have a means to indicate externally the internal liquid level in the container, or
  3. Have a filler hose nozzle that automatically stops the filling operation before the liquid pesticide mixture spills over the top of the container.
- C.** Any employer who mixes or applies any liquid pesticide mixture in a container with a capacity of more than 49 gallons shall have a handler present whenever pesticides are mixed or containers are filled to ensure that the liquid pesticide mixture does not spill over the top of the container.
- D.** Each handler, while mixing pesticides, shall protect the water supply from back-siphoning pesticide mixtures.

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1005 renumbered from R3-8-205 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

#### R3-3-1006. Agricultural Emergency

- A.** Any grower, a group of growers, or designee may request the Assistant Director for an agricultural emergency.
- B.** Possibility of agricultural emergency.
1. If during business hours information is obtained showing that a declaration of an agricultural emergency is necessary, the requesting party shall notify the Department immediately and provide the following information:
    - a. The cause of the emergency,
    - b. The area where the emergency may occur,
    - c. An explanation of why early entry is necessary,
    - d. Why other methods cannot be used to avoid the early entry, and
    - e. The justification that substantial economic loss will occur.
  2. The Assistant Director shall render a decision to the requesting party on whether an agricultural emergency exists within four hours of receiving the information.

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1003 renumbered from R3-8-203 (Supp. 91-4). R3-3-1003 repealed; new Section R3-3-1003 renumbered from R3-3-1002 and amended effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

#### R3-3-1004. Notification Requirements for Farm Labor Contractors

- A.** The owner or operator of an agricultural establishment shall provide the farm labor contractor who performs work on that agricultural establishment with:

3. If a grower or requesting party does not submit the written documentation in subsection (B)(1) or if the Assistant Director questions the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower's entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial of the agricultural emergency.
4. If the information in subsection (B)(1) is given orally, the requesting party shall notify the Department immediately and provide the Assistant Director with written evidence of the emergency within five days. The Assistant Director shall, within 10 business days of receipt of the written evidence of the emergency or completion of the investigation, issue a letter to the requesting party confirming or denying the request for an agricultural emergency.

**C. Occurrence of agricultural emergency.**

1. If information is obtained after business hours, or during a weekend or holiday, showing that a declaration of agricultural emergency is necessary, the requesting party shall inform the Department, orally, the next business day following the emergency and provide the following information, in writing, within 72 hours of the emergency or notification:
  - a. The cause of the emergency,
  - b. The area where the emergency occurred,
  - c. A brief explanation of why early entry was necessary,
  - d. Why other methods could not be used to avoid the early entry, and
  - e. The justification that substantial economic loss would have occurred.
2. If a grower or requesting party does not submit the written evidence of the emergency in subsection (B)(1) or if the Assistant Director questions whether the written evidence of emergency could have occurred before the emergency, or the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower's entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial.
3. The Assistant Director shall within 10 business days of receipt of the evidence of emergency or completion of the investigation issue a letter to the requesting party confirming or denying the request for the agricultural emergency.

**Historical Note**

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1006 renumbered from R3-8-206 (Supp. 91-4).  
Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

**R3-3-1007. Violations and Civil Penalties**

- A.** Serious violations. The base penalty for any serious violation is \$500 and no adjustment shall be made for mitigating circumstances. The penalty for a violation in which a person is killed or permanently disabled shall be the maximum allowed in A.R.S. §§ 3-3113 and 3-3114.
- B.** Nonserious violations. The Assistant Director shall calculate the base penalty for a nonserious violation and determine the civil penalty amount based on the factors prescribed in A.R.S. § 3-3113(I). If there are contributing or mitigating circumstances, the points may be adjusted, provided the adjustment is documented.

**VIOLATION GRAVITY FACTOR**

(1 - lowest; 4 - highest)

**VIOLATION**

**GRAVITY**

Central Posting	1 - 2
Training	1 - 4
Decontamination	1 - 4
Personal Protective Equipment	1 - 4
Pesticide Applications and Notice	1 - 4
Pesticide Application Restrictions	2 - 4
Other Requirements	1 - 4

**C. Size-of-business. The Assistant Director shall use:**

1. The maximum number of employees at any one time during the previous 12 months from the date of notice, including only the Arizona branch offices to determine the size business category; or
2. A site-specific employee count, if the violation does not endanger employees at other locations of the business; or
3. The number of persons trained by a trainer during the previous 12 months that violate the training provisions of this Section.

**SIZE-OF-BUSINESS**

Size Category	Number of Employees or Number of People Trained
I	1-10
II	11-75
III	76-150
IV	More than 150

- D.** Base penalty. The Assistant Director shall calculate the base penalty for the alleged violation by using the violation gravity factor established in subsection (B) and applying the size-of-business category established in subsection (C).

**BASE PENALTY**

Gravity Factor	Size Category			
	I	II	III	IV
1	\$250	\$300	\$350	\$400
2	300	350	400	450
3	350	400	450	500
4	500	500	500	500

- E.** Combined or group violations. The Assistant Director may combine or group violations.

1. Violations may be combined and assessed one penalty if the violation does not cause any immediate danger to public health or safety or damage to property. Example: Eight workers on a harvest crew have received no training and there is no evidence of exposure. This situation may result in only one training penalty being assessed against the employer.
2. Violations may be grouped if they have a common element and it is apparent which violation has the highest gravity. The penalty for a grouped violation is assessed on the violation with the highest gravity. The penalty for a grouped violation is assessed pursuant to the appropriate law or rule with the highest gravity. Example: Two crews from the same company are engaged in an improper handling activity and one crew is using a pesticide with a "danger" signal word, (skull and cross bones) while the other crew is using a pesticide with a "warning" signal word. This situation may result in the employer being assessed one penalty based on the penalty for the "danger" (skull and cross bones) violation.

- F.** If a decision is not reached in a negotiated settlement, the Director may assess a penalty pursuant to A.R.S. § 3-3114.

**Historical Note**

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1007 renumbered from R3-8-207 (Supp. 91-4).  
Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

**R3-3-1008. Penalty Adjustments**

A. The Assistant Director shall assign an appropriate number of points for each of the following five factors to increase the base penalty for a serious violation, or increase or decrease the base penalty for a nonserious violation.

1. If the total adjustment points on a nonserious violation is less than 9, the base penalty is reduced; if it is more than 9, the base penalty is increased.
2. If the total adjustment points on a serious violation is 3 or less, the base penalty shall be imposed; if it is more than 3, the base penalty is increased.
3. If a violation is a repeated violation, as prescribed in R3-3-1011 for compliance history, a base penalty adjustment factor shall not be used in assessing a penalty.

**BASE ADJUSTMENT FACTORS****Pesticide**

Signal word danger with skull and crossbones	5
Signal word danger	4
Warning	3
Caution	2
Indirect relation to the violation	1

**Harm to Human Health**

Actual Injuries or temporary reversible illness resulting in hospitalization or a variable but limited period of disability. (hospital care greater than 8 hours)	9
Actual (doctor care required, less than 8 hours)	6
Minor supportive care only	2 - 4
Consequence potential	1 - 2
No relationship found	0

**Compliance History**

One or more violations in the previous 12 months	4
One or more violations in the previous 24 months	3
One or more violations in the previous 36 months	1
No violation history	0

**Culpability**

Knowing or should have known	4
Negligence	2
Neither	0

**Good Faith**

0 - -2

B. The Assistant Director may reduce the base penalty for a non-serious violation, as determined in R3-3-1007(C), by as much as 80% depending upon the number of employees or trained persons, good faith, and history of previous violations.

**FINAL PENALTY CALCULATION**

	<b>Nonserious Violation</b>	<b>Serious Violation</b>
<b>Number of Points</b>	<b>Penalty Adjustment</b>	<b>Penalty Adjustment</b>
3 or below	Base -80%	Base Penalty
4	Base -65%	Base + 10%
5	Base -50%	Base + 20%
6	Base -35%	Base + 30%
7	Base -20%	Base + 40%
8	Base -5%	Base + 50%
9	Base Penalty	Base + 60%
10	Base + 20%	Base + 70%
11	Base + 35%	Base + 80%
12	Base + 50%	Base + 90%
13	Base + 65%	Base + 100%
14	Base + 80%	Base + 100%

15 or more Base + 100%

Base + 100%

Example: A business employs 26 people in Town A and 14 people in Town B. In addition, 35 seasonal people are employed during the harvest. The total annual employee positions equal 75. The following violations are found during an inspection: (1) No training for 35 seasonal workers on the harvest crew; (2) No available decontamination supplies; (3) No safety poster at the central posting location; (4) No emergency telephone number posted, and no medical facility location posted at the central posting location; (5) No posted pesticide application information at the central posting location.

Step 1. Use the *Violation Gravity Factor* table to determine the gravity of the violation.

- (1) Training, 1-4 2 points, all 35 workers are combined;
- (2) Decontamination, 1-43 points, no supplies were available within the prescribed distance and it has been 25 days since the most recent application;

(3) - (5) Central Posting, 1-2

1 point, since the violations concerns the same factor, they are combined. (There is evidence that the old poster blew away and the pesticide application information is kept available in the secretary's desk, but it is not 'readily' available.)

Step 2. Use the *Size of Business* table to determine the size category.

75 employees falls into the size category II;

Step 3. Use the *Base Penalty* table to determine the base penalty. Use column II based on the *Size of Business* determination from step 2.

Violation 1, with a gravity factor of 2, equals a base penalty of \$350;

Violation 2, with a gravity factor of 3, equals a base penalty of \$400;

Violations 3, 4, and 5, with a gravity factor of 1, equals 1 base penalty of \$300.

Step 4. Using the *Base Adjustment Factors* table to calculate the adjustments, if any. In this case, the base adjustments are uniform in all categories except #4, culpability.

Pesticide. It was a indirect relationship because of the timing of the application and when the workers were in the treated area. 1 point.

Harm to Human Health. There was no harm to health and the pesticide had not been applied recently. 1 point.

Compliance History. This farm has no previous violation history. 0 points.

Culpability. The supervisor attended a "train-the-trainer" course two years ago and should have been aware of the requirements of the

worker protection standard. Therefore, for the first two violations the supervisor should have known about the requirements. For the last three violations, the central posting sign was not checked frequently enough to ensure compliance. For violations 1 and 2, 4 points for knowing or should have known; For violations 3, 4, and 5, 2 points for negligence.

Good Faith. The inspector came back five days later and the workers were trained the day of the first inspection, the poster was posted and everything was in compliance. Since the employer corrected the violations quickly. -1 point.

Step 5. Add the points for each violation from Step 4.

Violation 1  $1 + 1 + 0 + 4 + -1 = 5$

Violation 2  $1 + 1 + 0 + 4 + -1 = 5$

Violations 3, 4, 5  $1 + 1 + 0 + 2 + -1 = 3$

Step 6. Using the *Final Penalty Calculation* table to determine the appropriate violation penalty adjustment that corresponds with the base adjustment factor point total. Use the definitions for nonserious or serious violations to determine the appropriate violation penalty adjustment column. In this case, use the nonserious penalty adjustment column.

Violation 1 5 points Base - 50% =  $350 - 175 = \$175$

Violation 2 5 points Base - 50% =  $400 - 200 = \$200$

Violations

3, 4, 53 points Base - 80% =  $300 - 240 = \$60$

Adjusted Penalty Total \$435

#### Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1008 renumbered from R3-8-208 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

#### R3-3-1009. Failure to Abate

- A. The Director shall issue a notification of failure-to-abate an alleged violation if a violation has not been corrected as specified on the citation. Failure-to-abate penalties, pursuant to A.R.S. § 3-3113(E), shall be applied if an employer or handler has not corrected a previous cited violation that is a final order of the Director. When determining the appropriate penalty amount, the Director shall take into consideration a good faith effort to abate the violation.
- B. If a person does not file a timely notice of contest within the 30-day contest period, the citation and proposed penalties shall be a final order of the Director.
- C. If a person files a notice of contest pursuant to A.R.S. § 3-3116(A), the period for the abatement shall not begin, as to those violations contested, until the day following the entry of the final order by the Director affirming the citation. If the person contests only the amount of the proposed penalty, the person shall correct the alleged violation within the prescribed abatement period.

#### Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Section heading corrected at request of the Department, Office File No. M11-60, filed February 23, 2011 (Supp. 09-4).

#### R3-3-1010. Calculation of Additional Penalties For Unabated Violations

- A. The Assistant Director shall calculate a daily penalty for unabated violations if failure to abate a serious or nonserious violation exists at the time of reinspection. That penalty shall

not be less than the penalty for the violation when cited, except as provided in subsection (C).

1. If no penalty was initially proposed, the Assistant Director shall determine a penalty. In no case shall the penalty be more than \$1,000 per day, the maximum allowed by A.R.S. § 3-3113(E).
  2. The daily proposed penalty shall be multiplied by the number of calendar days that the violation has continued unabated, except for the following: The number of days unabated shall be counted from the day following the abatement date specified in the final order. It shall include all calendar days between that date and the date of reinspection, excluding the date of reinspection.
- B. When calculating the additional daily penalty, the Assistant Director shall consider the extent that the violation has been abated, whether the employer has made a good faith effort to correct the violation, and it is beyond the employer's control to abate. Based on these factors, the Assistant Director may reduce or eliminate the daily penalty. Example: If three of five instances have been corrected, the daily proposed penalty (calculated as outlined in subsection (A) without regard to any partial abatement), may be reduced by the percentage of the total violations which have been corrected, in this instance, three of five, or 60%.

#### Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

#### R3-3-1011. Repeated or Willful Violations

- A. The Assistant Director shall calculate a penalty for each violation classified as serious or nonserious if similar violations are repeated within the last three years from the date of notice.
  1. The penalty for a repeated nonserious violation shall be doubled for the first repeated violation and tripled if the violation has been cited twice before, up to the maximum allowed by A.R.S. § 3-3113(A).
  2. The penalty for a repeated serious violation shall be multiplied five times for the first repeated violation and seven times if the violation has been cited twice before, up to the maximum allowed by A.R.S. § 3-3113(A).
  3. The penalty for a repeated serious violation in which someone is disabled or killed shall be multiplied 10 times for each repeated violation, up to the maximum allowed by A.R.S. § 3-3113(A).
  4. A repeated violation having no initial penalty shall be assessed for the first repeated violation as determined by this Article.
  5. If the Assistant Director determines, through documentation, that it is appropriate, the penalty may be multiplied by 10, up to the maximum allowed by A.R.S. § 3-3113(A).
- B. The Assistant Director may adjust the gravity based penalty by a multiplier up to 10 for any willful violation, up to the maximum allowed by A.R.S. § 3-3113(A).
- C. The Assistant Director shall not allow a reduction for any serious or nonserious willfully repeated violation.

#### Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

#### R3-3-1012. Citation; Posting

An employer shall post a citation prescribed at A.R.S. § 3-3110(C) for three days or until the violation is abated, whichever time period is longer.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

**ARTICLE 11. ARIZONA NATIVE PLANTS****R3-3-1101. Definitions**

In addition to the definitions in A.R.S. § 3-901, the following terms apply to this Article:

“Agent” means a person authorized to manage, represent, and act for a landowner.

“Certificate of inspection for interstate shipments” means a certificate to transport protected native plants out of the state.

“Conservation” means prevention of exploitation, destruction, or neglect of native plants while helping to ensure continued public use.

“Cord” means a specific type string or small rope issued by the Department for attaching tags and seals to protected native plants.

“Cord of wood” means a measurement of firewood equal to 128 cubic feet.

“Department” means the Arizona Department of Agriculture.

“Destroy” means to cause the death of any protected native plant.

“Harvest restricted native plant permit” means a permit required to remove the by-products, fibers, or wood from a native plant listed in Appendix A, subsection (D).

“Landowner” means a person who holds title to a parcel of land.

“Noncommercial salvage permit” means a permit required for the noncommercial salvage of a highly safeguarded native plant.

“Original growing site” means a place where a plant is growing wild and is rooted to the ground or any property owned by the same landowner where a protected native plant is relocated or transplanted without an original transportation permit.

“Permittee” means any person who is issued a permit by the Department for removing and transporting protected native plants.

“Protected native plant” means any living plant or plant part listed in Appendix A and growing wild in Arizona.

“Protected native plant tag” means a tag issued by the Department to identify the lawful removal of a protected native plant, other than a saguaro cactus, from its original growing site.

“Saguaro tag” means a tag issued by the Department to identify a saguaro cactus being lawfully moved.

“Salvage assessed native plant permit” means a permit required to remove a native plant listed in Appendix A, subsection (C).

“Salvage restricted native plant permit” means a permit required to remove a native plant listed in Appendix A, subsection (B).

“Scientific permit” means a permit required to remove a native plant for a controlled experimental project by a qualified person.

“Securely tie” means to fasten in a tight and secure manner to prevent the removal of tags, seals, or cord for reuse.

“Small Native Plant” means any protected plant eight inches in height or less.

“Survey” means the process by which a parcel of land is examined for the presence of protected native plants. A simple survey determines only whether protected native plants are present. A complete survey establishes the kind and number of each species present.

“Wood receipt” means a receipt issued by the Department to identify the lawful removal of a protected native plant

harvested for fuel, being removed from its original growing site.

**Historical Note**

New Section recodified from R3-4-601 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1102. Protected Native Plant Destruction by a Private Landowner****A. Notice of intent.**

1. Before a protected native plant is destroyed, the private landowner shall provide the following information to the Department on a form obtained from the Department:
  - a. Name, address, and telephone number of the landowner;
  - b. Name, address, and telephone number of the landowner’s agent, if applicable;
  - c. Valid documentation indicating land ownership, including but not limited to a parcel identification number, tax assessment, or deed;
  - d. Legal description, map, address, or other description of the area, including the number of acres to be cleared, in which the protected native plants subject to the destruction are located;
  - e. Earliest date of plant destruction; and
  - f. Landowner’s intent for the disposal or salvage of protected native plants on the land.
2. A landowner intending to destroy protected native plants on an area of less than one acre may submit the information required in subsection (A)(1) to the Department verbally.

**B. A landowner shall not destroy a protected native plant until:**

1. The landowner receives a written confirmation notice from the Department, and
2. Notice is given to the Department within the following minimum time periods:
  - a. Twenty days before the plants are destroyed over an area of less than one acre.
  - b. Thirty days before the plants are destroyed over an area of one acre or more but less than 40 acres.
  - c. Sixty days before the plants are destroyed over an area of 40 acres or more.

**C. The Department shall provide a salvage operator or other interested person with a copy of a notice of intent submitted under this Section upon receipt of the private landowner’s name, address, telephone number, and payment of an annual \$25 nonrefundable fee.****Historical Note**

New Section recodified from R3-4-602 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency****A. A state agency intending to remove or destroy protected native plants shall notify the Department, under A.R.S. § 3-905, and shall propose a method of disposal from the following list:**

1. The plants may be sold at a public auction;
2. The plants may be relocated or transported to a different location on the same property or to another property owned by the state, without obtaining a permit;
3. The plants may be donated to nonprofit organizations as provided in A.R.S. § 3-916;

4. The plants may be donated to another state agency or political subdivision, without obtaining a permit; or
  5. The plants may be salvaged or harvested by a member of the general public or a commercial dealer, if the person holds a permit as provided under A.R.S. § 3-906 or 3-907.
- B.** If the plants are highly safeguarded native plants, they shall first be made available to the holder of a scientific permit or a noncommercial salvage permit.

#### Historical Note

New Section recodified from R3-4-603 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

#### R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees

- A.** A person shall not collect, transport, possess, sell, offer for sale, dispose, or salvage protected native plants unless that person is 18 years of age or older and possesses an appropriate permit.
- B.** An applicant shall submit the following information to the Department on a form obtained from the Department, as applicable:
1. Name, business name, address, telephone number, Social Security number or tax identification number, and signature of the applicant;
  2. Name and number of plants to be removed;
  3. Purpose of the plant removal;
  4. Whether the applicant has a conviction for a violation of a state or federal statute regarding the protection of native plants within the previous five years;
  5. Except for salvage assessed native plants:
    - a. Name, address, telephone number, and signature of the landowner;
    - b. Location of the permitted site and size of acreage;
    - c. Destination address where the plants will be transplanted;
    - d. Legal and physical description of the location of the original growing site; and
    - e. Parcel identification number for the permitted site or other documents proving land ownership.
- C.** Permit fees.
1. A person removing and transporting protected native plants shall submit the following applicable fee to the Department with the permit application:
    - a. Salvage assessed native plant permit, annual use, \$35;
    - b. Harvest restricted native plant permit, annual use, \$35;
    - c. All other native plant permits, one-time use, \$7;
    - d. Certificate of inspection for interstate shipments, \$15.
  2. Exemptions. Protected native plants are exempt from fees if:
    - a. The protected native plants intended for personal use by a landowner are taken from one piece of land owned by the landowner to another piece of land also owned by the landowner, remain on the property of the landowner, and are not sold or offered for sale;
    - b. The protected native plants are collected for scientific purposes; or
    - c. A landowner donates the protected native plant to a scientific, educational, or charitable institution.
- D.** Tag and harvesting fees.

1. Any person obtaining a saguaro tag or other protected native plant tag or receipt shall submit the following applicable fee to the Department at the time a tag is obtained:
    - a. Saguaro, \$8 per plant;
    - b. Trees cut for firewood and listed in the harvest restricted category, \$6 per cord of wood;
    - c. Small native plant, \$.50 per plant;
    - d. Any other protected native plant referenced in A.R.S. § 3-903(B) and (C) and listed in Appendix A, \$6 per plant.
  2. The fee for harvesting *nolina* or *yucca* parts is \$6 per ton. Payment shall be made to the Department in the following manner:
    - a. Unprocessed *nolina* or *yucca* fiber shall be weighed on a state-certified bonded scale; and
    - b. The harvester shall submit payment and weight certificates to the Department no later than the tenth day of the month following each harvest.
- E.** Seal fees. A person obtaining a seal shall submit a \$.15 per plant fee to the Department at the time a seal is obtained.
- F.** Salvage assessed native plant permits and plant tags are valid for the calendar year in which they are issued. The tags expire at the end of the calendar year unless the permit is renewed.

#### Historical Note

New Section recodified from R3-4-604 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

#### R3-3-1105. Scientific Permits; Noncommercial Salvage Permits

- A.** Scientific Permit
1. A person shall not collect any highly safeguarded or other protected native plants for a research project unless that person holds a scientific permit.
  2. An applicant shall submit the following information to the Department on a form obtained from the Department:
    - a. Name, address, and telephone number of the company or research facility applying for the permit;
    - b. Name, title and experience of the person conducting the research project;
    - c. Purpose and intent of the research project;
    - d. Controls to be used;
    - e. Variables to be considered;
    - f. Time-frame for the project;
    - g. Anticipated results and plans for publication;
    - h. Reports and recordkeeping that will be used to monitor the project;
    - i. Project funding source;
    - j. Funding of the company or research facility;
    - k. Written authorization from the landowner for collection of the plants;
    - l. Date of the application;
    - m. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests; and
    - n. Tax identification number, or if applicant is an individual, a Social Security number.
  3. A scientific permit shall be issued if the applicant provides documentation that demonstrates the following:
    - a. A plan, pre-approved by the landowner, to restore the removal site to a natural appearance;
    - b. The removal and movement of the native plants shall be accomplished by a person experienced in native plant removal and transplantation;



- c. The native plants used in the project shall remain accessible to the Department;
  - d. The ecology of the project site is beneficial to the growth of the specific plants in the project if practical;
  - e. Arrangements exist for a suitable permanent planting site for the surviving plants after the project's completion; and
  - f. Description of plant disposition and research hypothesis.
4. A scientific permit is valid for the calendar year in which it is issued.

**B. Noncommercial salvage permit:**

- 1. Highly safeguarded native plants may only be collected for conservation by a person holding a noncommercial salvage permit.
- 2. An applicant shall submit the following information to the Department, on a form obtained from the Department:
  - a. Name, address, and telephone number of the applicant applying for the permit;
  - b. Proposed relocation site for the plants;
  - c. Written authorization from the landowner for collection of the plants;
  - d. Date of the application; and
  - e. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests.
- 3. A noncommercial salvage permit shall be issued if all of the following conditions are met through documentation provided to the Department:
  - a. The native plants used in the project shall be accessible to the Department after transplant, and
  - b. The relocation site is beneficial to the growth of the specific plants in the project.
- 4. A noncommercial salvage permit is valid only for the transportation and the transplantation of the particular native plant.

**Historical Note**

New Section recodified from R3-4-605 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1106. Protected Native Plant Survey; Fee**

- A.** Upon request, the Department may conduct a native plant survey. Upon completion, the Department shall notify the individual who made the request of:
  - 1. The date the survey was performed;
  - 2. The amount of the survey fee payable to the Department;
  - 3. The name of Department personnel performing the survey;
  - 4. Upon payment, the survey results including the names and numbers of protected native plants.
- B.** A person who requests a native plant survey shall pay the survey fee to the Department within 30 days from the date of the notification. The survey fee shall be based on time and travel expenses, except that no fee shall be charged for a determination of whether protected species exist on the land.

**Historical Note**

New Section recodified from R3-4-606 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1107. Movement Permits; Tags, Seals, and Cord Use**

- A.** Any person moving a protected native plant, except a saguaro cactus, previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the plant is being moved shall provide the following information on the permit application:
  - 1. The name, telephone number, and signature of the landowner;
  - 2. The location of the plant;
  - 3. The name, address, and telephone number of the receiver;
  - 4. The name, address, and telephone number of the carrier;
  - 5. The number, species, and description of the plant being removed;
  - 6. The tax parcel identification number; and
  - 7. The date of the application.
- B.** Any person moving a saguaro cactus over four feet tall previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the saguaro cactus is being moved shall provide the following information on the permit application, unless the applicant maintains a record of the original permit or verifies the Department has a record of a previous legal movement of the cactus by the applicant.
  - 1. The name, telephone number, and signature of the landowner;
  - 2. The address where the saguaro cactus is located;
  - 3. The name, address, and telephone number of the receiver;
  - 4. The name, address, and telephone number of the carrier;
  - 5. The number, species, and description of the plant being removed;
  - 6. The tax parcel identification number of the property where the saguaro cactus is being moved; and
  - 7. The date of the application.
- C.** Movement of protected native plants obtained outside Arizona.
  - 1. Any person moving a protected native plant obtained outside Arizona and transporting and planting it within the state shall declare the protected native plant at the agricultural inspection station nearest the port of entry. The Department shall place the protected native plant under "Warning Hold" to the nearest permitting office.
  - 2. If an agricultural station is not in operation at the port of entry, the person shall declare the protected native plant at the nearest permitting office during normal office hours.
  - 3. After the plants have been declared, the permitting office shall issue a Movement Permit and seal.
- D.** Any person moving protected native plants shall obtain the following seals from the Department and securely attach the appropriate seal to each protected native plant:
  - 1. Protected native plant seals identify protected native plants, except saguaro cacti, that will be moved from locations that are not the original growing sites.
  - 2. Imported seals identify all imported protected native plants.
- E.** Tag, seal, and cord attachment.
  - 1. A permittee shall attach a tag to each protected native plant taken from its original growing site, using cord provided by the Department, before transport. No other type of rope, string, twine, or wire is allowed.
  - 2. The cord shall be securely tied around the plant, and the tag attached so that it cannot be removed without breaking the seal or cutting the cord.

3. The tag shall be placed directly over the knot in the cord and the ends pressed firmly together sealing the knot so that it cannot be removed for reuse.
4. The protected native plant seal shall be placed directly over the knot and snapped firmly closed, sealing the knot.
5. The imported seal shall be attached directly to the plant.
6. Upon loading the plant, every effort shall be made to allow visibility of the tag during transport.

**Historical Note**

New Section recodified from R3-4-607 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1108. Recordkeeping; Salvage Assessed and Harvest Restricted Native Plants****A. Salvage Assessed Native Plants.**

1. A permittee shall maintain a record of each protected native plant removed under an annual permit for two years from the date of each transaction and allow Department inspection of the records during normal business hours. The transaction record shall include the date salvage restricted protected native plants were removed and the permit and tag numbers.
2. Annually, by January 31, a permittee shall submit to the Department a copy of each transaction record for the prior calendar year.

**B. Harvest Restricted Native Plants.** A permittee shall submit to the Department by the tenth day of each month the transaction records for the previous month, or a written statement that no transactions were conducted for that month.**Historical Note**

New Section recodified from R3-4-608 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1109. Arizona Native Plant Law Education**

- A.** The Department may schedule seminars and training courses on an as-needed basis.
- B.** In addition to the following fees, charges for printed materials or pamphlets shall be assessed based upon printing and mailing costs:
  1. A person attending a seminar or training course on Arizona native plant law shall pay a nonrefundable fee of \$10 to the Department before attending the class.
  2. A person convicted of violating Arizona native plant laws and ordered by a court to attend a native plant educational class shall pay a nonrefundable fee of \$25 to the Department before attending the class. The Department shall provide written confirmation of satisfactory completion to a person ordered by a court to attend a class.

**Historical Note**

New Section recodified from R3-4-609 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1110. Permit Denial**

Upon notice of denial of a permit, an applicant may request, in writing, that the Department provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10, to appeal the denial.

**Historical Note**

New Section recodified from R3-4-610 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by

final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**R3-3-1111. Repealed****Historical Note**

New Section recodified from R3-4-611 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Repealed by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**Appendix A. Protected Native Plants by Category**

- A.** Highly safeguarded native plants as prescribed in A.R.S. § 3-903(B)(1), for which removal is not allowed except as provided in R3-3-1105:

**AGAVACEAE Agave Family**

*Agave arizonica* Gentry & Weber–Arizona agave  
*Agave delamateri* Hodgson & Slauson  
*Agave murpheyi* Gibson–Hohokam agave  
*Agave parviflora* Torr.–Santa Cruz striped agave, Small-flowered agave  
*Agave phillipsiana* Hodgson  
*Agave schottii* Engelm. var. *treleasei* (Toumey) Kearney & Peebles

**APIACEAE Parsley Family. [= Umbelliferae]**

*Lilaeopsis schaffneriana* (Schlecht.) Coult. & Rose ssp. *recurva* (A. W. Hill) Affolter–Cienega false rush, Huachuca water umbel.  
 Syn.: *Lilaeopsis recurva* A. W. Hill

**APOCYNACEAE Dogbane Family**

*Amsonia kearneyana* Woods.–Kearney's bluestar  
*Cycladenia humilis* Benth. var. *jonesii* (Eastw.) Welsh & Atwood–Jones' cycladenia

**ASCLEPIADACEAE Milkweed Family**

*Asclepias welshii* N. & P. Holmgren–Welsh's milkweed

**ASTERACEAE Sunflower Family [= Compositae]**

*Erigeron lemmonii* Gray–Lemmon fleabane  
*Erigeron rhizomatus* Cronquist–Zuni fleabane  
*Senecio franciscanus* Greene–San Francisco Peaks groundsel  
*Senecio huachucanus* Gray–Huachuca groundsel

**BURSERACEAE Torch Wood Family**

*Bursera fagaroides* (H.B.K.) Engler–Fragrant bursera

**CACTACEAE Cactus Family**

*Carnegiea gigantea* (Engelm.) Britt. & Rose–Saguaro: 'Crested' or 'Fan-top' form  
 Syn.: *Cereus giganteus* Engelm.  
*Coryphantha recurvata* (Engelm.) Britt. & Rose–Golden-chested beehive cactus  
 Syn.: *Mammillaria recurvata* Engelm.  
*Coryphantha robbinsorum* (W. H. Earle) A. Zimmerman–Cochise pincushion cactus, Robbin's cory cactus.  
 Syn.: *Cochiseia robbinsorum* W.H. Earle  
*Coryphantha scheeri* (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson–Scheer's strong-spined cory cactus.  
 Syn.: *Mammillaria robustispina* Schott

*Echinocactus horizonthalonius* Lemaire var. *nicholii*  
L. Benson–Nichol's Turk's head cactus

*Echinocereus triglochidiatus* Engelm. var. *arizonicus* (Rose ex Orcutt) L. Benson–Arizona hedgehog cactus

*Echinomastus erectocentrus* (Coult.) Britt. & Rose var. *acunensis* (W.T. Marshall) L. Benson–Acuna cactus

Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *acunensis* (W. T. Marshall) L. Benson

*Pediocactus bradyi* L. Benson–Brady's pincushion cactus

*Pediocactus paradinei* B. W. Benson–Paradine plains cactus

*Pediocactus peeblesianus* (Croizat) L. Benson var. *fickeiseniae* L. Benson

*Pediocactus peeblesianus* (Croizat) L. Benson var. *peeblesianus* Peebles' Navajo cactus, Navajo plains cactus

Syn.: *Navajoa peeblesiana* Croizat

*Pediocactus sileri* (Engelm.) L. Benson–Siler pincushion cactus

Syn.: *Utahia sileri* (Engelm.) Britt. & Rose

#### COCHLOSPERMACEAE Cochlospermum Family

*Amoreuxia gonzalezii* Sprague & Riley

#### CYPERACEAE Sedge Family

*Carex specuicola* J. T. Howell–Navajo sedge

#### FABACEAE Pea Family [=Leguminosae]

*Astragalus cremnophylax* Barneby var. *cremnophylax* Sentry milk vetch

*Astragalus holmgreniorum* Barneby–Holmgren milk-vetch

*Dalea tentaculoides* Gentry–Gentry indigo bush

#### LENNOACEAE Lennoa Family

*Pholisma arenarium* Nutt.–Scaly-stemmed sand plant

*Pholisma sonora* (Torr. ex Gray) Yatskievych–Sandfood, sandroot

Syn.: *Ammobroma sonora* Torr. ex Gray

#### LILIACEAE Lily Family

*Allium gooddingii* Ownbey–Goodding's onion

#### ORCHIDACEAE Orchid Family

*Cypripedium calceolus* L. var. *pubescens* (Willd.) Correll–Yellow lady's slipper

*Hexalectris warnockii* Ames & Correll–Texas purple spike

*Spiranthes delitescens* C. Sheviak

#### POACEAE Grass Family [=Gramineae]

*Puccinellia parishii* A.S. Hitchc.–Parish alkali grass

#### POLYGONACEAE Buckwheat Family

*Rumex orthoneurus* Rech. f.

#### PSILOTACEAE Psilotum Family

*Psilotum nudum* (L.) Beauv. Bush Moss, Whisk Fern

#### RANUNCULACEAE Buttercup Family

*Cimicifuga arizonica* Wats.–Arizona bugbane

*Clematis hirsutissima* Pursh var. *arizonica* (Heller) Erickson–Arizona leatherflower

#### ROSACEAE Rose Family

*Purshia subintegra* (Kearney) J. Hendrickson–Arizona cliffrose, Burro Creek cliffrose

Syn.: *Cowania subintegra* Kearney

#### SALICACEAE Willow Family

*Salix arizonica* Dorn–Arizona willow

#### SCROPHULARIACEAE Figwort Family

*Penstemon discolor* Keck–Variegated beardtongue

- B.** Salvage restricted native plants as prescribed in A.R.S. § 3-903(B)(2) that require a permit for removal. In addition to the plants listed under Agavaceae, Cactaceae, Liliaceae, and Orchidaceae, all other species in these families are salvage restricted protected native plants:

#### AGAVACEAE Agave Family

*Agave chrysantha* Peebles

*Agave deserti* Engelm. ssp. *simplex* Gentry–Desert agave

*Agave mckelveyana* Gentry

*Agave palmeri* Engelm.

*Agave parryi* Engelm. var. *couseii* (Engelm. ex Trel.) Kearney & Peebles

*Agave parryi* Engelm. var. *huachucensis* (Baker) Little ex L. Benson

Syn.: *Agave huachucensis* Baker

*Agave parryi* Engelm. var. *parryi*

*Agave schottii* Engelm. var. *schottii* – Shindigger

*Agave toumeyana* Trel. ssp. *bella* (Breitung) Gentry

*Agave toumeyana* Trel. ssp. *toumeyana*

*Agave utahensis* Engelm. spp. *kaibabensis* (McKelvey) Gentry

Syn.: *Agave kaibabensis* McKelvey

*Agave utahensis* Engelm. var. *utahensis*

*Yucca angustissima* Engelm. var. *angustissima*

*Yucca angustissima* Engelm. var. *kanabensis* (McKelvey) Reveal

Syn.: *Yucca kanabensis* McKelvey

*Yucca arizonica* McKelvey

*Yucca baccata* Torr. var. *baccata*–Banana yucca

*Yucca baccata* Torr. var. *vespertina* McKelvey

*Yucca baileyi* Woot. & Standl. var. *intermedia* (McKelvey) Reveal

Syn.: *Yucca navajoa* Webber

*Yucca brevifolia* Engelm. var. *brevifolia*–Joshua tree

*Yucca brevifolia* Engelm. var. *jaegeriana* McKelvey

*Yucca elata* Engelm. var. *elata*–Soaptree yucca, palmilla

*Yucca elata* Engelm. var. *utahensis* (McKelvey) Reveal

Syn.: *Yucca utahensis* McKelvey

*Yucca elata* Engelm. var. *verdiensis* (McKelvey) Reveal

Syn.: *Yucca verdiensis* McKelvey

*Yucca harrimaniae* Trel.

- Yucca schidigera* Roetzl.–Mohave yucca, Spanish dagger  
*Yucca schottii* Engelm.–Hairy yucca  
*Yucca thornberi* McKelvey  
*Yucca whipplei* Torr. var. *whipplei*–Our Lord's candle  
 Syn.: *Yucca newberryi* McKelvey
- AMARYLLIDACEAE Amaryllis Family  
*Zephyranthes longifolia* Hemsl.–Plains Rain Lily
- ANACARDIACEAE Sumac Family  
*Rhus kearneyi* Barkley–Kearney Sumac
- ARECACEAE Palm Family [=Palmae]  
*Washingtonia filifera* (Linden ex Andre) H. Wendl–California fan palm
- ASTERACEAE Sunflower Family [=Compositae]  
*Cirsium parryi* (Gray) Petrak ssp. *mogollonicum* Schaak  
*Cirsium virginensis* Welsh–Virgin thistle  
*Erigeron kuschei* Eastw.–Chiricahua fleabane  
*Erigeron piscaticus* Nesom–Fish Creek fleabane  
*Flaveria macdougalii* Theroux, Pinkava & Keil  
*Perityle ajoensis* Todson–Ajo rock daisy  
*Perityle cochisensis* (Niles) Powell–Chiricahua rock daisy  
*Senecio quaerens* Greene–Gila groundsel
- BURSERACEAE Torch-Wood Family  
*Bursera microphylla* Gray–Elephant tree, torote
- CACTACEAE Cactus Family  
*Carnegiea gigantea* (Engelm.) Britt. & Rose–Saguaro  
 Syn.: *Cereus giganteus* Engelm.  
*Coryphantha missouriensis* (Sweet) Britt. & Rose  
*Coryphantha missouriensis* (Sweet) Britt. & Rose var. *marstonii* (Clover) L. Benson  
*Coryphantha scheeri* (Kuntze) L. Benson var. *valida* (Engelm.) L. Benson  
*Coryphantha strobiliformis* (Poselger) var. *orcuttii* (Rose) L. Benson  
*Coryphantha strobiliformis* (Poselger) var. *strobiliformis*  
*Coryphantha vivipara* (Nutt.) Britt. & Rose var. *alversonii* (Coult.) L. Benson  
*Coryphantha vivipara* (Nutt.) Britt. & Rose var. *arizonica* (Engelm.) W. T. Marshall  
 Syn.: *Mammillaria arizonica* Engelm.  
*Coryphantha vivipara* (Nutt.) Britt. & Rose var. *bisbeeana* (Orcutt) L. Benson  
*Coryphantha vivipara* (Nutt.) Britt. & Rose var. *deserti* (Engelm.) W. T. Marshall  
 Syn.: *Mammillaria chlorantha* Engelm.  
*Coryphantha vivipara* (Nutt.) Britt. & Rose var. *rosea* (Clokey) L. Benson  
*Echinocactus polycephalus* Engelm. & Bigel. var. *polycephalus*  
*Echinocactus polycephalus* Engelm. & Bigel. var. *xeranthemoides* Engelm. ex Coult.
- Syn.: *Echinocactus xeranthemoides* Engelm. ex Coult.  
*Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *acicularis* L. Benson  
*Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *armatus* L. Benson  
*Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *chrysocentrus* L. Benson  
*Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *engelmannii*  
*Echinocereus engelmannii* (Parry) Lemaire var. *variegatus* (Engelm.) Engelm. ex Rümpler  
*Echinocereus fasciculatus* (Engelm. ex B. D. Jackson) L. Benson var. *fasciculatus*  
 Syn.: *Echinocereus fendleri* (Engelm.) Rümpler var. *fasciculatus* (Engelm. ex B. D. Jackson) N. P. Taylor, *Echinocereus fendleri* (Engelm.) Rümpler var. *robusta* L. Benson; *Mammillaria fasciculata* Engelm.  
*Echinocereus fasciculatus* (Engelm. ex B. D. Jackson) L. Benson var. *bonkerae* (Thornber & Bonker) L. Benson.  
 Syn.: *Echinocereus boyce-thompsonii* Orcutt var. *bonkerae* Peebles; *Echinocereus fendleri* (Engelm.) Rümpler var. *bonkerae* (Thornber & Bonker) L. Benson  
*Echinocereus fasciculatus* (Engelm. ex B. D. Jackson) L. Benson var. *boyce-thompsonii* (Orcutt) L. Benson  
 Syn.: *Echinocereus boyce-thompsonii* Orcutt  
*Echinocereus fendleri* (Engelm.) Rümpler var. *boyce-thompsonii* (Orcutt) L. Benson  
*Echinocereus fendleri* (Engelm.) Rümpler var. *fendleri*  
*Echinocereus fendleri* (Engelm.) Rümpler var. *rectispinus* (Peebles) L. Benson  
*Echinocereus ledingii* Peebles  
*Echinocereus nicholii* (L. Benson) Parfitt.  
 Syn.: *Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *nicholii* L. Benson  
*Echinocereus pectinatus* (Scheidw.) Engelm. var. *dasyacanthus* (Engelm.) N. P. Taylor  
 Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *neomexicanus* (Coult.) L. Benson  
*Echinocereus polyacanthus* Engelm. (1848) var. *polyacanthus*  
*Echinocereus pseudopectinatus* (N. P. Taylor) N. P. Taylor  
 Syn.: *Echinocereus bristolii* W. T. Marshall var. *pseudopectinatus* N. P. Taylor, *Echinocereus pectinatus* (Scheidw.) Engelm. var. *pectinatus sensu* Kearney and Peebles, Arizona Flora, and L. Benson, The Cacti of Arizona and The Cacti of the United States and Canada.  
*Echinocereus rigidissimus* (Engelm.) Hort. F. A. Haage.  
 Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *rigidissimus* (Engelm.) Engelm. ex Rümpler–Rainbow cactus  
*Echinocereus triglochidiatus* Engelm. var. *gonacanthus* (Engelm. & Bigel.) Boiss.

*Echinocereus triglochidiatus* Engelm. var. *melanacanthus* (Engelm.) L. Benson  
Syn.: *Mammillaria aggregata* Engelm.

*Echinocereus triglochidiatus* Engelm. var. *mojavensis* (Engelm.) L. Benson

*Echinocereus triglochidiatus* Engelm. var. *neomexicanus* (Standl.) Standl. ex W. T. Marshall.

Syn.: *Echinocereus triglochidiatus* Engelm. var. *polyacanthus* (Engelm. 1859 non 1848) L. Benson

*Echinocereus triglochidiatus* Engelm. var. *triglochidiatus*

*Echinomastus erectocentrus* (Coult.) Britt. & Rose var. *erectocentrus*

Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *erectocentra*

*Echinomastus intertextus* (Engelm.) Britt. & Rose  
Syn.: *Neolloydia intertexta* (Engelm.) L. Benson

*Echinomastus johnsonii* (Parry) Baxter–Beehive cactus

Syn.: *Neolloydia johnsonii* (Parry) L. Benson

*Epithelantha micromeris* (Engelm.) Weber ex Britt. & Rose

*Ferocactus cylindraceus* (Engelm.) Orcutt var. *cylindraceus*–Barrel cactus

Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *acanthodes*

*Ferocactus cylindraceus* (Engelm.) Orcutt var. *eastwoodiae* (Engelm.) N. P. Taylor

Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *eastwoodiae* L. Benson; *Ferocactus eastwoodiae* (L. Benson) L. Benson

*Ferocactus cylindraceus* (Engelm.) Orcutt. var. *lecontei* (Engelm.) H. Bravo

Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *lecontei* (Engelm.) Lindsay; *Ferocactus lecontei* (Engelm.) Britt. & Rose

*Ferocactus emoryi* (Engelm.) Orcutt–Barrel cactus  
Syn.: *Ferocactus covillei* Britt. & Rose

*Ferocactus wislizenii* (Engelm.) Britt. & Rose–Barrel cactus

*Lophocereus schottii* (Engelm.) Britt. & Rose–Senita

*Mammillaria grahamii* Engelm. var. *grahamii*

*Mammillaria grahamii* Engelm. var. *oliviae* (Orcutt) L. Benson

Syn.: *Mammillaria oliviae* Orcutt

*Mammillaria heyderi* Mühlenpf. var. *heyderi*

Syn.: *Mammillaria gummifera* Engelm. var. *applanata* (Engelm.) L. Benson

*Mammillaria heyderi* Mühlenpf. var. *macdougalii* (Rose) L. Benson

Syn.: *Mammillaria gummifera* Engelm. var. *macdougalii* (Rose) L. Benson; *Mammillaria macdougalii* Rose

*Mammillaria heyderi* Mühlenpf. var. *meiacantha* (Engelm.) L. Benson

Syn.: *Mammillaria gummifera* Engelm. var. *meiacantha* (Engelm.) L. Benson

*Mammillaria lasiacantha* Engelm.

*Mammillaria mainiae* K. Brand.

*Mammillaria microcarpa* Engelm.

*Mammillaria tetrancistra* Engelm.

*Mammillaria thornberi* Orcutt

*Mammillaria viridiflora* (Britt. & Rose) Bödeker.  
Syn.: *Mammillaria oestra* L. Benson

*Mammillaria wrightii* Engelm. var. *wilcoxii* (Toumey ex K. Schumann) W. T. Marshall

Syn.: *Mammillaria wilcoxii* Toumey

*Mammillaria wrightii* Engelm. var. *wrightii*

*Opuntia acanthocarpa* Engelm. & Bigel. var. *acanthocarpa*–Buckhorn cholla

*Opuntia acanthocarpa* Engelm. & Bigel. var. *coloradensis* L. Benson

*Opuntia acanthocarpa* Engelm. & Bigel. var. *major* L. Benson

Syn.: *Opuntia acanthocarpa* Engelm. & Bigel. var. *ramosa* Peebles

*Opuntia acanthocarpa* Engelm. & Bigel. var. *thornberi* (Thornber & Bonker) L. Benson

Syn.: *Opuntia thornberi* Thornber & Bonker

*Opuntia arbuscula* Engelm.–Pencil cholla

*Opuntia basilaris* Engelm. & Bigel. var. *aurea* (Baxter) W. T. Marshall–Yellow beavertail

Syn.: *Opuntia aurea* Baxter

*Opuntia basilaris* Engelm. & Bigel. var. *basilaris*–Beavertail cactus

*Opuntia basilaris* Engelm. & Bigel. var. *longiareolata* (Clover & Jotter) L. Benson

*Opuntia basilaris* Engelm. & Bigel. var. *treleasei* (Coult.) Toumey

*Opuntia bigelovii* Engelm.–Teddy-bear cholla

*Opuntia campii* ined.

*Opuntia canada* Griffiths (*O. phaeacantha* Engelm. var. *laevis* X *major* and *O. gilvescens* Griffiths).

*Opuntia chlorotica* Engelm. & Bigel.–Pancake prickly-pear

*Opuntia clavata* Engelm.–Club cholla

*Opuntia curvospina* Griffiths

*Opuntia echinocarpa* Engelm. & Bigel.–Silver cholla

*Opuntia emoryi* Engelm.–Devil cholla

Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *stanlyi*

*Opuntia engelmannii* Salm-Dyck ex Engelm. var. *engelmannii*–Engelmann’s prickly-pear

Syn.: *Opuntia phaeacantha* Engelm. var. *discata* (Griffiths) Benson & Walkington

*Opuntia engelmannii* Salm-Dyck ex Engelm. var. *flavospina* (L. Benson) Parfitt & Pinkava

Syn.: *Opuntia phaeacantha* Engelm. var. *flavispina* L. Benson

*Opuntia erinacea* Engelm. & Bigel. var. *erinacea*–Mohave prickly-pear

*Opuntia erinacea* Engelm. & Bigel. var. *hystricina* (Engelm. & Bigel.) L. Benson

Syn.: *Opuntia hystricina* Engelm. & Bigel.

*Opuntia erinacea* Engelm. & Bigel. var. *ursina* (Weber) Parish–Grizzly bear prickly-pear  
Syn.: *Opuntia ursina* Weber

*Opuntia erinacea* Engelm. & Bigel. var. *utahensis* (Engelm.) L. Benson  
Syn.: *Opuntia rhodantha* Schum.

*Opuntia fragilis* Nutt. var. *brachyarthra* (Engelm. & Bigel.) Coult.

*Opuntia fragilis* Nutt. var. *fragilis*–Little prickly-pear

*Opuntia fulgida* Engelm. var. *fulgida*–Jumping chain-fruit cholla

*Opuntia fulgida* Engelm. var. *mammillata* (Schott) Coult.

*Opuntia imbricata* (Haw.) DC.–Tree cholla

*Opuntia X kelvinensis* V. & K. Grant pro sp.

Syn.: *Opuntia kelvinensis* V. & K. Grant

*Opuntia kleiniae* DC. var. *tetracantha* (Toumey) W. T. Marshall

Syn.: *Opuntia tetrancistra* Toumey

*Opuntia kunzei* Rose.

Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *kunzei* (Rose) L. Benson; *Opuntia kunzei* Rose var. *wrightiana* (E. M. Baxter) Peebles; *Opuntia wrightiana* E. M. Baxter

*Opuntia leptocaulis* DC.–Desert Christmas cactus, Pencil cholla

*Opuntia littoralis* (Engelm.) Cockl. var. *vaseyi* (Coult.) Benson & Walkington

*Opuntia macrocentra* Engelm.–Purple prickly-pear  
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *macrocentra* (Engelm.) L. Benson; *Opuntia violacea* Engelm. ex B. D. Jackson var. *violacea*

*Opuntia macrorrhiza* Engelm. var. *macrorrhiza*–Plains prickly-pear

Syn.: *Opuntia plumbea* Rose

*Opuntia macrorrhiza* Engelm. var. *pottsii* (Salm-Dyck) L. Benson

*Opuntia martiniana* (L. Benson) Parfitt

Syn.: *Opuntia littoralis* (Engelm.) Cockerell var. *martiniana* (L. Benson) L. Benson; *Opuntia macrocentra* Engelm. var. *martiniana* L. Benson

*Opuntia nicholii* L. Benson–Navajo Bridge prickly-pear

*Opuntia parishii* Orcutt.

Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *parishii* (Orcutt) L. Benson

*Opuntia phaeacantha* Engelm. var. *laevis* (Coult.) L. Benson

Syn.: *Opuntia laevis* Coult.

*Opuntia phaeacantha* Engelm. var. *major* Engelm.

*Opuntia phaeacantha* Engelm. var. *phaeacantha*

*Opuntia phaeacantha* Engelm. var. *superbospina* (Griffiths) L. Benson

*Opuntia polyacantha* Haw. var. *juniperina* (Engelm.) L. Benson

*Opuntia polyacantha* Haw. var. *rufispina* (Engelm.) L. Benson

*Opuntia polyacantha* Haw. var. *trichophora* (Engelm. & Bigel.) L. Benson

*Opuntia pulchella* Engelm.–Sand cholla

*Opuntia ramosissima* Engelm.–Diamond cholla

*Opuntia santa-rita* (Griffiths & Hare) Rose–Santa Rita prickly-pear

Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *santa-rita* (Griffiths & Hare) L. Benson

*Opuntia spinosior* (Engelm.) Toumey–Cane cholla

*Opuntia versicolor* Engelm.–Staghorn cholla

*Opuntia vivipara* Engelm

*Opuntia whipplei* Engelm. & Bigel. var. *multigeniculata* (Clokey) L. Benson

*Opuntia whipplei* Engelm. & Bigel. var. *whipplei*–Whipple cholla

*Opuntia wigginsii* L. Benson

*Pediocactus papyracanthus* (Engelm.) L. Benson  
Grama grass cactus

Syn.: *Toumeyia papyracanthus* (Engelm.) Britt. & Rose

*Pediocactus simpsonii* (Engelm.) Britt & Rose var. *simpsonii*

*Peniocereus greggii* (Engelm.) Britt. & Rose var. *greggii*–Night-blooming cereus

Syn.: *Cereus greggii* Engelm.

*Peniocereus greggii* (Engelm.) Britt & Rose var. *transmontanus*–Queen-of-the-Night

*Peniocereus striatus* (Brandege) Buxbaum.

Syn.: *Neoevansia striata* (Brandege) Sanchez-Mejorada; *Cereus striatus* Brandege; *Wilcoxia diguetii* (Webber) Peebles

*Sclerocactus parviflorus* Clover & Jotter var. *intermedius* (Peebles) Woodruff & L. Benson

Syn.: *Sclerocactus intermedius* Peebles

*Sclerocactus parviflorus* Clover & Jotter var. *parviflorus*

Syn.: *Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose var. *roseus* (Clover) L. Benson

*Sclerocactus pubispinus* (Engelm.) L. Peebles

*Sclerocactus spinosior* (Engelm.) Woodruff & L. Benson

Syn.: *Sclerocactus pubispinus* (Engelm.) L. Benson var. *sileri* L. Benson

*Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose

*Stenocereus thurberi* (Engelm.) F. Buxbaum–Organ pipe cactus

Syn.: *Cereus thurberi* Engelm.; *Lemaireocereus thurberi* (Engelm.) Britt. & Rose

#### CAMPANULACEAE Bellflower Family

*Lobelia cardinalis* L. ssp. *graminea* (Lam.) McVaugh–Cardinal flower

*Lobelia fenestralis* Cav.–Leafy lobelia

*Lobelia laxiflora* H. B. K. var. *angustifolia* A. DC.

#### CAPPARACEAE Cappar Family [=Capparidaceae]

*Cleome multicaulis* DC.–Playa spiderflower

#### CHENOPODIACEAE Goosefoot Family

*Atriplex hymenelytra* (Torr.) Wats.

## CRASSULACEAE Stonecrop Family

*Dudleya arizonica* (Nutt.) Britt. & Rose  
Syn.: *Echeveria pulverulenta* Nutt. ssp. *arizonica* (Rose) Clokey

*Dudleya saxosa* (M.E. Jones) Britt. & Rose ssp. *colomiae* (Rose) Moran  
Syn.: *Echeveria collomiae* (Rose) Kearney & Peebles

*Graptopetalum bartramii* Rose  
Syn.: *Echeveria bartramii* (Rose) K. & P.

*Graptopetalum bartramii* Rose–Bartram's stonecrop, Bartram's live-forever  
Syn.: *Echeveria bartramii* (Rose) Kearney & Peebles

*Graptopetalum rusbyi* (Greene) Rose  
Syn.: *Echeveria rusbyi* (Greene) Nels. & Macbr.

*Sedum cockerellii* Britt.

*Sedum griffithsii* Rose

*Sedum lanceolatum* Torr.

Syn.: *Sedum stenopetalum* Pursh

*Sedum rhodanthum* Gray

*Sedum stelliforme* Wats.

## CROSSOSOMATACEAE Crossosoma Family

*Apacheria chiricahuensis* C. T. Mason–Chiricahua rock flower

## CUCURBITACEAE Gourd Family

*Tumamoca macdougalii* Rose–Tumamoc globeberry

## EUPHORBIACEAE Spurge Family

*Euphorbia plummerae* Wats.–Woodland spurge

*Sapium biloculare* (Wats.) Pax–Mexican jumping-bean

## FABACEAE Pea Family [=Leguminosae]

*Astragalus corbrensis* Gray var. *maguirei* Kearney

*Astragalus cremnophyllax* Barneby var. *myriorrhaphis* Barneby–Cliff milk-vetch

*Astragalus hypoxylus* Wats.–Huachuca milk-vetch

*Astragalus nutriosensis* Sanderson–Nutrioso milk-vetch

*Astragalus xiphoides* (Barneby) Barneby–Gladiator milk-vetch

*Cercis occidentalis* Torr.–California redbud

*Errazurizia rotundata* (Woot.) Barneby

Syn.: *Parryella rotundata* Woot.

*Lysiloma microphylla* Benth. var. *thornberi* (Britt. & Rose) Isely–Feather bush

Syn.: *Lysiloma thornberi* Britt. & Rose

*Phaseolus supinus* Wiggins & Rollins

## FOUQUIERIACEAE Ocotillo Family

*Fouquieria splendens* Engelm.–Ocotillo, coach-whip, monkey-tail

## GENTIANACEAE Gentian Family

*Gentianella wislizenii* (Engelm.) J. Gillett

Syn.: *Gentiana wislizenii* Engelm.

## LAMIACEAE Mint Family

*Hedeoma diffusum* Green–Flagstaff pennyroyal

*Salvia dorrii* ssp. *mearnsii*

*Trichostema micranthum* Gray

## LILIACEAE Lily Family

*Allium acuminatum* Hook.

*Allium bigelovii* Wats.

*Allium biseptum* Wats. var. *palmeri* (Wats.) Cronq.

Syn.: *Allium palmeri* Wats.

*Allium cernuum* Roth. var. *neomexicanum* (Rydb.)

Macbr.–Nodding onion

*Allium cernuum* Roth. var. *obtusum* Ckll.

*Allium geyeri* Wats. var. *geyeri*

*Allium geyeri* Wats. var. *tenerum* Jones

*Allium kunthii* Don

*Allium macropetalum* Rydb.

*Allium nevadense* Wats. var. *cristatum* (Wats.) Ownbey

*Allium nevadense* Wats. var. *nevadense*

*Allium parishii* Wats.

*Allium plummerae* Wats.

*Allium rhizomatum* Woot. & Standl. Incl.: *Allium glandulosum* Link & Otto *sensu* Kearney & Peebles

*Androstephium breviflorum* Wats.–Funnel-lily

*Calochortus ambiguus* (Jones) Ownbey

*Calochortus aureus* Wats.

Syn.: *Calochortus nuttallii* Torr. & Gray var. *aureus* (Wats.) Ownbey

*Calochortus flexuosus* Wats.–Straggling mariposa

*Calochortus gunnisonii* Wats.

*Calochortus kennedyi* Porter var. *kennedyi*–Desert mariposa

*Calochortus kennedyi* Porter var. *munzii* Jeps.

*Dichelostemma pulchellum* (Salisbi) Heller var. *pauciflorum* (Torr.) Hoover

*Disporum trachycarpum* (Wats.) Benth. & Hook. var. *subglabrum* Kelso

*Disporum trachycarpum* (Wats.) Benth. & Hook. var. *trachycarpum*

*Echeandia flavescens* (Schultes & Schultes) Cruden

Syn.: *Anthericum torreyi* Baker

*Eremocrinum albomarginatum* Jones

*Fritillaria atropurpurea* Nutt.

*Hesperocallis undulata* Gray–Ajo lily

*Lilium parryi* Wats.–Lemon lily

*Lilium umbellatum* Pursh

*Maianthemum racemosum* (L.) Link. ssp. *amplexicaule* (Nutt.) LaFrankie

Syn.: *Smilacina racemosa* (L.) Desf. var. *amplexicaulis* (Nutt.) Wats.

*Maianthemum racemosum* (L.) Link ssp. *racemosum*–False Solomon's seal

Syn.: *Smilacina racemosa* (L.) Desf. var. *racemosa*;

*Smilacina racemosa* (L.) Desf. var. *cylindrata* Fern.

*Maianthemum stellatum* (L.) Link

Syn.: *Smilacina stellata* (L.) Desf.–Starflower

*Milla biflora* Cav.–Mexican star

*Nothoscordum texanum* Jones

*Polygonatum cobrense* (Woot. & Standl.) Gates  
*Streptopus amplexifolius* (L.) DC.–Twisted stalk  
*Triteleia lemmonae* (Wats.) Greene  
*Triteleiopsis palmeri* (Wats.) Hoover  
*Veratrum californicum* Durand.–False hellebore  
*Zephyranthes longifolia* Hemsl.–Plains rain lily  
*Zigadenus elegans* Pursh–White camas, alkali-grass  
*Zigadenus paniculatus* (Nutt.) Wats.–Sand-corn  
*Zigadenus virescens* (H. B. K.) Macbr.

## MALVACEAE Mallow Family

*Abutilon parishii* Wats.–Tucson Indian mallow  
*Abutilon thurberi* Gray–Baboquivari Indian mallow

## NOLINACEAE Nolina

*Dasylirion wheeleri* Wats.–Sotol, desert spoon  
*Nolina bigelovii* (Torr.) Wats.–Bigelow's nolina  
*Nolina microcarpa* Wats.–Beargrass, sacahuista  
*Nolina parryi* Wats.–Parry's nolina  
*Nolina texana* Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass

## ONAGRACEAE Evening Primrose Family

*Camissonia exilis* (Raven) Raven

## ORCHIDACEAE Orchid Family

*Calypso bulbosa* (L.) Oakes var. *americana* (R. Br.) Luer  
*Coeloglossum viride* (L.) Hartmann var. *virescens* (Muhl.) Luer  
 Syn.: *Habenaria viridis* (L.) R. Br. var. *bracteata* (Muhl.) Gray  
*Corallorhiza maculata* Raf.–Spotted coral root  
*Corallorhiza striata* Lindl.–Striped coral root  
*Corallorhiza wisteriana* Conrad–Spring coral root  
*Epipactis gigantea* Douglas ex Hook.–Giant helleborine  
*Goodyera oblongifolia* Raf.  
*Goodyera repens* (L.) R. Br.  
*Hexalectris spicata* (Walt.) Barnhart–Crested coral root  
*Listera convallarioides* (Swartz) Nutt.–Broad-leaved twayblade  
*Malaxis corymbosa* (S. Wats.) Kuntze  
*Malaxis ehrenbergii* (Reichb. f.) Kuntze  
*Malaxis macrostachya* (Lexarza) Kuntze–Mountain malaxia  
 Syn.: *Malaxis soulei* L. O. Williams  
*Malaxis tenuis* (S. Wats.) Ames  
*Platanthera hyperborea* (L.) Lindley var. *gracilis* (Lindley) Luer  
 Syn.: *Habenaria sparsiflora* Wats. var. *laxiflora* (Rydb.) Correll  
*Platanthera hyperborea* (L.) Lindley var. *hyperborea*–Northern green orchid  
 Syn.: *Habenaria hyperborea* (L.) R. Br.  
*Platanthera limosa* Lindl.–Thurber's bog orchid  
 Syn.: *Habenaria limosa* (Lindley) Hemsley

*Platanthera sparsiflora* (Wats.) Schlechter var. *ensifolia* (Rydb.) Luer

*Platanthera sparsiflora* (Wats.) var. *laxiflora* (Rydb.) Correll

*Platanthera sparsiflora* (Wats.) Schlechter var. *sparsiflora*–Sparsely-flowered bog orchid  
 Syn.: *Habenaria sparsiflora* Wats.

*Platanthera stricta* Lindl.–Slender bog orchid  
 Syn.: *Habenaria saccata* Greene; *Platanthera saccata* (Greene) Hulten

*Platanthera viridis* (L.) R. Br. var. *bracteata* (Muhl.) Gray–Long-bracted habenaria

*Spiranthes michauxiana* (La Llave & Lex.) Hemsl.

*Spiranthes parasitica* A. Rich. & Gal.

*Spiranthes romanzoffiana* Cham.–Hooded ladies tresses

## PAPAVERACEAE Poppy Family

*Arctomecon californica* Torr. & Frém.–Golden-bear poppy, Yellow-flowered desert poppy

## PINACEAE Pine Family

*Pinus aristata* Engelm.–Bristlecone pine

## POLYGONACEAE Buckwheat Family

*Eriogonum apachense* Reveal

*Eriogonum capillare* Small

*Eriogonum mortonianum* Reveal–Morton's buckwheat

*Eriogonum ripleyi* J. T. Howell–Ripley's wild buckwheat, Frazier's Well buckwheat

*Eriogonum thompsonae* Wats. var. *atwoodii* Reveal–Atwood's buckwheat

## PORTULACACEAE Purslane Family

*Talinum humile* Greene–Pinos Altos flame flower

*Talinum marginatum* Greene

*Talinum validulum* Greene–Tusayan flame flower

## PRIMULACEAE Primrose Family

*Dodecatheon alpinum* (Gray) Greene ssp. *majus* H. J. Thompson

*Dodecatheon dentatum* Hook. ssp. *ellisiae* (Standl.) H. J. Thompson

*Dodecatheon pulchellum* (Raf.) Merrill

*Primula hunnewellii* Fern.

*Primula rusbyi* Greene

*Primula specuicola* Rydb.

## RANUNCULACEAE Buttercup Family

*Aquilegia caerulea* James ssp. *pinetorum* (Tidest.) Payson–Rocky Mountain Columbine

*Aquilegia chrysantha* Gray

*Aquilegia desertorum* (Jones) Ckll.–Desert columbine, Mogollon columbine

*Aquilegia elegantula* Greene

*Aquilegia longissima* Gray–Long Spur Columbine

*Aquilegia micrantha* Eastw.

*Aquilegia triternata* Payson

## ROSACEAE Rose Family



*Rosa stellata* Woot.–ssp. *abyssa* A. Phillips Grand Canyon rose  
*Vauquelinia californica* (Torr.) Sarg. ssp. *pauciflora* (Standl.) Hess & Henrickson–Few-flowered Arizona rosewood

## SCROPHULARIACEAE Figwort Family

*Castilleja mogollonica* Pennell  
*Penstemon albomarginatus* Jones  
*Penstemon bicolor* (Brandeg.) Clokey & Keck ssp. *roseus* Clokey & Keck  
*Penstemon clutei* A. Nels.  
*Penstemon distans* N. Holmgren–Mt. Trumbull beardtongue  
*Penstemon linarioides* spp. *maguirei*

## SIMAROUBACEAE Simarouba Family

*Castela emoryi* (Gray) Moran & Felger–Crucifixion thorn  
 Syn.: *Holacantha emoryi* Gray

## STERCULIACEAE Cacao Family

*Fremontodendron californicum* (Torr.) Coville–Flannel bush

- C. Salvage assessed native plants as prescribed in A.R.S. § 3-903(B)(3) that require a permit for removal:

## BIGNONIACEAE Bignonia Family

*Chilopsis linearis* (Cav.) Sweet var. *arcuata* Fosberg–Desert-willow  
*Chilopsis linearis* (Cav.) Sweet var. *glutinosa* (Engelm.) Fosberg

## FABACEAE Pea Family [=Leguminosae]

*Cercidium floridum* Benth.–Blue palo verde  
*Cercidium microphyllum* (Torr.) Rose & Johnst.–Foothill palo verde  
*Olneya tesota* Gray–Desert ironwood  
*Prosopis glandulosa* Torr. var. *glandulosa*–Honey mesquite  
 Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.  
*Prosopis glandulosa* Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

*Prosopis pubescens* Benth.–Screwbean mesquite

*Prosopis velutina* Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

*Psoralea spinosa* (Gray) Barneby–Smoke tree.

Syn.: *Dalea spinosa* Gray

- D. Harvest restricted native plants as prescribed at A.R.S. § 3-903(B)(4) that require a permit to cut or remove the plants for their by-products, fibers, or wood:

## AGAVACEAE Agave Family (including Nolinaceae)

*Nolina bigelovii* (Torr.) Wats.–Bigelow's nolina

*Nolina microcarpa* Wats.–Beargrass, sacahuista

*Nolina parryi* Wats.–Parry's nolina

*Nolina texana* Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass

*Yucca baccata* Torr. var. *baccata*–Banana yucca

*Yucca schidigera* Roezl.–Mohave yucca, Spanish dagger

## FABACEAE Pea Family [=Leguminosae]

*Olneya tesota* Gray–Desert ironwood

*Prosopis glandulosa* Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

*Prosopis glandulosa* Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

*Prosopis pubescens* Benth.–Screwbean mesquite

*Prosopis velutina* Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

**Historical Note**

New Section recodified from 3 A.A.C. 4, Article 6 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

**TITLE 3. AGRICULTURE**  
**CHAPTER 4. DEPARTMENT OF AGRICULTURE**  
**PLANT SERVICES DIVISION**

Authority: A.R.S. §§ 3-107, 3-201 et seq., 3-441 et seq., and 3-481 et seq.

*Title 3, Chapter 4, Article 1, Sections R3-4-101 through R3-4-109 renumbered from Title 3, Chapter 1, Article 1, Sections R3-1-01 through R3-1-09; Title 3, Chapter 4, Article 2, Sections R3-4-201 through R3-4-248 renumbered from Title 3, Chapter 1, Article 2, Sections R3-1-50 through R3-1-77; Title 3, Chapter 4, Article 3, Sections R3-4-301 through R3-4-307 renumbered from Title 3, Chapter 1, Article 3, Sections R3-1-301 through R3-1-307; Title 3, Chapter 4, Article 4, Sections R3-4-401 through R3-4-408 renumbered from Title 3, Chapter 1, Article 4, Sections R3-1-401 through R3-1-408; Title 3, Chapter 4, Article 5, Sections R3-4-501 through R3-4-504 renumbered from Title 3, Chapter 1, Article 5, Sections R3-1-501 through R3-1-504; Title 3, Chapter 4, Article 6, Sections R3-4-601 through R3-4-633 and Appendix 1 renumbered from Title 3, Chapter 1, Article 6, Sections R3-1-601 through R3-1-633 and Appendix 1; Title 3, Chapter 4, Article 7, Sections R3-4-701 through R3-4-708 renumbered from Title 3, Chapter 7, Article 1, Sections R3-7-101 through R3-7-108; Title 3, Chapter 4, Article 8, Sections R3-4-801 through R3-4-807 renumbered from Title 3, Chapter 7, Article 2, Sections R3-7-201 through R3-7-207 (Supp. 91-4).*

**ARTICLE 1. GENERAL PROVISIONS**

*Title 3, Chapter 4, Article 1, Sections R3-4-101 through R3-4-109 renumbered from Title 3, Chapter 1, Article 1, Sections R3-1-01 through R3-1-09 (Supp. 91-4).*

Section

R3-4-101.	Definitions
R3-4-102.	Licensing Time-frames
R3-4-103.	Repealed
R3-4-104.	Repealed
R3-4-105.	Repealed
R3-4-106.	Repealed
R3-4-107.	Experimental Purposes
R3-4-108.	Repealed
R3-4-109.	Repealed
Table 1.	Time-frames (Calendar Days)

**ARTICLE 2. QUARANTINE**

*Title 3, Chapter 4, Article 2, Sections R3-4-201 through R3-4-248 renumbered from Title 3, Chapter 1, Article 2, Sections R3-1-50 through R3-1-77 (Supp. 91-4).*

Section

R3-4-201.	Transportation and Packaging
R3-4-202.	Repealed
R3-4-203.	Repealed
R3-4-204.	Pink Bollworm and the Cotton Boll Weevil Complex
R3-4-205.	Renumbered
R3-4-206.	Repealed
R3-4-207.	Repealed
R3-4-208.	Repealed
R3-4-209.	Repealed
R3-4-210.	Repealed
R3-4-211.	Repealed
R3-4-212.	Repealed
R3-4-213.	Repealed
R3-4-214.	Repealed
R3-4-215.	Repealed
R3-4-216.	Repealed
R3-4-217.	Repealed
R3-4-218.	Cotton Boll Weevil Pest
R3-4-219.	Citrus Fruit Surface Pest
R3-4-220.	Citrus Nursery Stock Pests
R3-4-221.	Repealed
R3-4-222.	Repealed
R3-4-223.	Repealed
R3-4-224.	Repealed
R3-4-225.	Repealed
R3-4-226.	Scale Insect Pests
R3-4-227.	Repealed
R3-4-228.	European Corn Borer

R3-4-229.	Nut Tree Pests
R3-4-230.	Repealed
R3-4-231.	Nut Pests
R3-4-232.	Repealed
R3-4-233.	Lettuce Mosaic Virus
R3-4-234.	Nematode Pests
R3-4-235.	Repealed
R3-4-236.	Repealed
R3-4-237.	Repealed
R3-4-238.	Whitefly Pests
R3-4-239.	Imported Fire Ants
R3-4-240.	Apple Maggot and Plum Curculio
R3-4-241.	Lethal Yellowing of Palms
R3-4-242.	Brown Citrus Aphid
R3-4-243.	Repealed
R3-4-244.	Regulated and Restricted Noxious Weeds
R3-4-245.	Prohibited Noxious Weeds
R3-4-246.	Caribbean Fruit Fly
R3-4-247.	Repealed
R3-4-248.	Japanese beetle

**ARTICLE 3. NURSERY CERTIFICATION PROGRAM**

*Title 3, Chapter 4, Article 3, Sections R3-4-301 through R3-4-307 renumbered from Title 3, Chapter 1, Article 3, Sections R3-1-301 through R3-1-307 (Supp. 91-4).*

*Article 3 consisting of Sections R3-4-301 through R3-4-307 adopted effective January 17, 1989.*

Section

R3-4-301.	Nursery Certification
R3-4-302.	Repealed
R3-4-303.	Repealed
R3-4-304.	Repealed
R3-4-305.	Repealed
R3-4-306.	Repealed
R3-4-307.	Repealed

**ARTICLE 4. SEEDS**

*Title 3, Chapter 4, Article 4, Sections R3-4-401 through R3-4-408 renumbered from Title 3, Chapter 1, Article 4, Sections R3-1-401 through R3-1-408 (Supp. 91-4).*

*Article 4 consisting of Sections R3-4-110 through R3-4-117 renumbered without change as Article 4, Sections R3-4-401 through R3-4-408 (Supp. 89-1).*

Section

R3-4-401.	Definitions
R3-4-402.	Labeling
R3-4-403.	Noxious Weed Seeds
R3-4-404.	Germination Standards
R3-4-405.	Seed-certifying Agencies

R3-4-406. Sampling and Analyzing Seed  
 R3-4-407. Phytosanitary Field Inspection; Fee  
 R3-4-408. Licenses: Seed Dealer and Seed Labeler; Fees  
 R3-4-409. Violations and Penalties

#### ARTICLE 5. COLORED COTTON

(Authority: A.R.S. § 3-205.02 et seq.)

*Article 5, consisting of Section R3-4-501 renumbered from R3-4-205 and amended, effective April 9, 1998 (Supp. 98-2).*

*Article 5, consisting of Sections R3-4-501 through R3-4-506, repealed by summary action with an interim effective date of February 10, 1995; interim effective date of February 10, 1995 now the permanent date (Supp. 96-3).*

*Article 5, consisting of Sections R3-4-501 through R3-4-505 adopted effective October 15, 1993 (Supp. 93-4).*

*Article 5, consisting of Sections R3-4-501 through R3-4-504 repealed effective October 15, 1993 (Supp. 93-4).*

*Title 3, Chapter 4, Article 5, Sections R3-4-501 through R3-4-504 renumbered from Title 3, Chapter 1, Article 5, Sections R3-1-501 through R3-1-504 (Supp. 91-4).*

*Article 5 consisting of Sections R3-4-120 through R3-4-122 renumbered without change as Article 5, Sections R3-4-501 through R3-4-503 (Supp. 89-1).*

#### Section

R3-4-501. Colored Cotton Production and Processing

#### ARTICLE 6. RECODIFIED

*Article 6, consisting of Sections R3-4-601 through R3-4-611 and Appendix A, recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).*

*Article 6, consisting of Sections R3-4-601 through R3-4-618 and Appendix A, adopted effective July 6, 1993 (Supp. 93-3).*

*Article 6, consisting of Sections R3-4-601 through R3-4-633 and Appendix A, repealed effective July 6, 1993 (Supp. 93-3).*

*Title 3, Chapter 4, Article 6, Sections R3-4-601 through R3-4-633 and Appendix 1 renumbered from Title 3, Chapter 1, Article 6, Sections R3-1-601 through R3-1-633 and Appendix 1.*

*Article 6 consisting of Sections R3-4-130 through R3-4-141 renumbered without change as Article 6, Sections R3-4-601 through R3-4-612 (Supp. 89-1).*

#### Section

R3-4-601. Recodified  
 R3-4-602. Recodified  
 R3-4-603. Recodified  
 R3-4-604. Recodified  
 R3-4-605. Recodified  
 R3-4-606. Recodified  
 R3-4-607. Recodified  
 R3-4-608. Recodified  
 R3-4-609. Recodified  
 R3-4-610. Recodified  
 R3-4-611. Recodified  
 R3-4-612. Repealed  
 R3-4-613. Repealed  
 R3-4-614. Repealed  
 R3-4-615. Repealed  
 R3-4-616. Renumbered  
 R3-4-617. Repealed  
 R3-4-618. Renumbered  
 R3-4-619. Repealed

R3-4-620. Repealed  
 R3-4-621. Repealed  
 R3-4-622. Repealed  
 R3-4-623. Repealed  
 R3-4-624. Repealed  
 R3-4-625. Repealed  
 R3-4-626. Repealed  
 R3-4-627. Repealed  
 R3-4-628. Repealed  
 R3-4-629. Repealed  
 R3-4-630. Repealed  
 R3-4-631. Repealed  
 R3-4-632. Repealed  
 R3-4-633. Repealed  
 Appendix A. Recodified

#### ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

(Authority: A.R.S. § 3-481 et seq.)

*Title 3, Chapter 4, Article 7, Sections R3-4-701 through R3-4-708 renumbered from Title 3, Chapter 7, Article 1, Sections R3-7-101 through R3-7-108 (Supp. 91-4).*

#### Section

R3-4-701. Apple Standards  
 R3-4-702. Apricot Standards  
 R3-4-703. Asparagus Standards  
 R3-4-704. Beet and Turnip Standards  
 R3-4-705. Broccoli Standards  
 R3-4-706. Brussels Sprouts Standards  
 R3-4-707. Cabbage Standards  
 R3-4-708. Cantaloupe Standards; Maturity Sampling; Packing Arrangements  
 R3-4-709. Carrot Standards  
 R3-4-710. Cauliflower Standards  
 R3-4-711. Celery Standards  
 R3-4-712. Cherry Standards  
 R3-4-713. Corn Standards  
 R3-4-714. Endive, Escarole, or Chicory Standards  
 R3-4-715. Greens Standards (Collard, Rapini, Mustard, and Turnip)  
 R3-4-716. Head Lettuce Standards  
 R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling  
 R3-4-718. Nectarine Standards  
 R3-4-719. Okra Standards  
 R3-4-720. Dry Onion Standards  
 R3-4-721. Pea Standards  
 R3-4-722. Peach Standards  
 R3-4-723. Pear Standards  
 R3-4-724. Sweet Pepper Standards  
 R3-4-725. Fresh Plum and Prune Standards  
 R3-4-726. Potato Standards  
 R3-4-727. Romaine Standards  
 R3-4-728. Spinach Standards  
 R3-4-729. Strawberry Standards  
 R3-4-730. String Bean Standards  
 R3-4-731. Summer Squash Standards  
 R3-4-732. Sweet Potato Standards  
 R3-4-733. Table Grape Standards  
 R3-4-734. Tomato Standards  
 R3-4-735. Winter Squash Standards  
 R3-4-736. Standards for Unlisted Fresh Fruits and Vegetables, Experimental Product Standards  
 R3-4-737. Container Labeling for Fruit and Vegetables

- R3-4-738. Inspection and Representative Sampling for Fruit and Vegetables
- R3-4-739. Reconditioning for Fruit and Vegetables
- R3-4-740. Experimental Pack and Product Permits for Fruit and Vegetables
- R3-4-741. Inspection Fee
- R3-4-742. Recordkeeping and Reporting Requirements for Fruit and Vegetable Commission Merchants
- R3-4-743. Recordkeeping and Reporting Requirements for Fruit and Vegetable Shippers

## ARTICLE 8. CITRUS FRUIT STANDARDIZATION

(Authority: A.R.S. § 3-441 et seq.)

*Title 3, Chapter 4, Article 8, Sections R3-4-801 through R3-4-807 renumbered from Title 3, Chapter 7, Article 2, Sections R3-7-201 through R3-7-207 (Supp. 91-4).*

### Section

- R3-4-801. Orange and Grapefruit Standards
- R3-4-802. Lemon Standards
- R3-4-803. Lime Standards
- R3-4-804. Tangerine, Tangelo, and Mandarin Standards
- R3-4-805. Serious Defects in Citrus Fruit
- R3-4-806. Tolerance for Serious Defects
- R3-4-807. Freezing Damage
- R3-4-808. Standards for Unlisted Citrus Fruit, Experimental Product Standards
- R3-4-809. Bulk Sale of Citrus Fruit; Non-licensed Purchaser
- R3-4-810. Packaged Count and Average Diameter
- R3-4-811. Container Labeling for Citrus Fruit
- R3-4-812. Inspections and Representative Sampling for Citrus Fruit
- R3-4-813. Reconditioning for Citrus Fruit
- R3-4-814. Experimental Pack and Product Permits for Citrus Fruit
- R3-4-815. Recordkeeping and Reporting Requirements for Citrus Fruit Commission Merchants
- R3-4-816. Recordkeeping and Reporting Requirements for Citrus Fruit Shippers

## ARTICLE 9. BIOTECHNOLOGY

*Article 9, consisting of Section R3-4-901, adopted effective November 22, 1993 (Supp. 93-4).*

### Section

- R3-4-901. Genetically Engineered Organisms and Products

## ARTICLE 1. GENERAL PROVISIONS

### R3-4-101. Definitions

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, and 3-481, the following terms apply to this Chapter:

1. "Air plant (Epiphyte)" means a plant that grows on another plant or object but does not require the other plant or object as a source of nutrients.
2. "Appliance" means any box, tray, container, ladder, tent, vehicle, implement, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.
3. "Aquatic" means living or growing in or on water.
4. "Bulk container" means a package used solely for transporting a commodity in bulk quantities.
5. "Carrier" means any plant or thing that can transport or harbor a crop pest.
6. "Certificate" means an original document issued by an inspector of the Department, the United States Department of Agriculture, or authorized officer of the state of origin, stating name, quantity, and nature of the regulated

commodity, and the information required by a specific regulation.

7. "Commodity" means any plant, appliance, soil, material, or thing that is subject to federal and state laws and rules.
8. "Common carrier" means any person transporting a commodity for compensation or commercial purpose.
9. "Consumer container" means a package that is produced or distributed for retail sale or for consumption by an individual.
10. "Container" means any box, crate, lug, chest, basket, carton, barrel, keg, drum, can, sack, or other receptacle for a commodity.
11. "Cotton harvesting machine" means any machine used to pick or harvest raw cotton in a field.
12. "Cotton lint" means the remnant produced when cottonseed is processed in a gin.
13. "Cotton plant" means all parts of *Gossypium* spp. whether wild or domesticated, except manufactured cotton products.
14. "Cotton products" include seed cotton, cotton lint, cotton linters, motes, cotton waste, gin trash, cottonseed, and cotton hulls.
15. "Cotton waste" includes all waste products from the processing of cotton at gins and cottonseed-oil mills, in any form or under any trade designation.
16. "Defoliate" means to remove the leaves from a plant.
17. "Diseased" means an abnormal condition of a plant resulting from an infection.
18. "Fumigate" means to apply a gaseous substance to a commodity in a closed area to eradicate a pest.
19. "Gin trash" means organic waste or materials resulting from ginning cotton.
20. "Head leaves" means all leaves that enfold the compact portion of a head of lettuce or cabbage.
21. "Host" means a plant on or in which a pest can live or reproduce, or both.
22. "Hull" means the dry outer covering of a seed or nut.
23. "Husk" means the membranous outer envelope of many seeds and fruit, such as an ear of corn or a nut.
24. "Infected" means any plant or other material on or in which a disease is found.
25. "Infested" means any plant or other material on or in which a pest is found.
26. "Inspector" means an employee of the Department or other governmental agency who enforces any law or rule of the Department.
27. "Label" means all tags and other written, printed, or graphic representations in any form, accompanying or pertaining to a plant or other commodity.
28. "Lot" means any one group of plants or things, whether or not containerized that is set apart or is separate from any other group.
29. "Nursery" means real property or other premises on or in which nursery stock is propagated, grown, or cultivated or from which source nursery stock is offered for distribution or sale. (A.R.S. § 3-201(6))
30. "Permit" means an official document authorizing the movement of a host plant and carrier.
31. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.
32. "Plant" includes every kind of vegetation, wild or domesticated, and any part thereof, as well as seed, fruit or other natural product of such vegetation. (A.R.S. § 3-201(8))

33. "Private carrier" means any person transporting a commodity for a noncommercial purpose.
34. "Quarantine holding area" means a site approved by the Department to hold plant material originating from an area infested with imported fire ants or nematode pests.
35. "Reshipment" means the shipment of a commodity after receipt from another shipping point.
36. "Sell" means to exchange for money or its equivalent including to offer, expose, or possess a commodity for sale or to otherwise exchange, barter, or trade.
37. "Serious damage" means any injury or defect rising from any circumstance, natural or mechanical, that affects the appearance or the edible or shipping quality of a commodity, or lot.
38. "Soil" means any non-liquid combination of organic, or organic and inorganic material in which plants can grow.
39. "Standard container" means a receptacle used to pack a specific commodity.
40. "Stub or soca cotton" means cotton stalks of a previous crop that begin to show signs of growing by displaying buds, which swell or send out shoots of plant growth, either white or green.
41. "Subcontainer" means any container being used within another container.
42. "Transport" means moving an article from one point to another.
43. "Treatment" means an application of a substance as either a spray, mist, dust, granule, or fumigant; or a process in which a substance or procedure is used to control or eradicate a crop pest.
44. "Warning-Hold for Agricultural Inspection" means an official Department notice given to a common carrier or private carrier to place a commodity under quarantine.
45. "Vector" means an organism (usually an insect) that may carry a pathogen from one host plant to another.
46. "Vehicle" means an automotive device, such as a car, bus, truck, or private or recreational vehicle.
47. "Volunteer cotton" means a sprout from seed of a previous crop.
48. "Wrapper leaves" means all leaves that do not closely enfold the compact portion of the head of lettuce or cabbage.

#### Historical Note

Former Rule 1; Amended effective June 16, 1977 (Supp. 77-3). Section R3-1-01 renumbered to R3-4-101 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section R3-4-101 renumbered from R3-4-102 without change, effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

#### R3-4-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
  1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
  2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
  3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
  1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
  2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

#### Historical Note

Former Rule 2; Amended effective June 19, 1978 (Supp. 78-3). Section R3-1-02 renumbered to R3-4-102 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section R3-4-102 renumbered to R3-4-101; new Section R3-4-102 adopted effective October 8, 1998 (Supp. 98-4).

#### R3-4-103. Repealed

#### Historical Note

Former Rule 3. Section R3-1-03 renumbered to R3-4-103 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

#### R3-4-104. Repealed

#### Historical Note

Former Rule 4. Section R3-1-04 renumbered to R3-4-104 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

#### R3-4-105. Repealed

#### Historical Note

Former Rule 5. Section R3-1-05 renumbered to R3-4-105 (Supp. 91-4). Amended effective September 22, 1994 (Supp. 94-3). Section repealed by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4).

**R3-4-106. Repealed****Historical Note**

Former Rule 6. Section R3-1-06 renumbered to R3-4-106  
(Supp. 91-4). Repealed effective September 22, 1994  
(Supp. 94-3).

**R3-4-107. Experimental Purposes**

Commodities covered by any regulation may be imported for experimental purposes by any authorized governmental or private organization under special permit from the Director.

**Historical Note**

Former Rule 7. Section R3-1-07 renumbered to R3-4-107  
(Supp. 91-4). Amended effective September 22, 1994  
(Supp. 94-3).

**R3-4-108. Repealed****Historical Note**

Former Rule 8. Section R3-1-08 renumbered to R3-4-108  
(Supp. 91-4). Repealed effective September 22, 1994  
(Supp. 94-3).

**R3-4-109. Repealed****Historical Note**

Former Rule 9. Section R3-1-09 renumbered to R3-4-109  
(Supp. 91-4). Repealed effective September 22, 1994  
(Supp. 94-3).

**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>QUARANTINE</b>						
Cotton Boll Weevil Pest	A.R.S. § 3-201.01 R3-4-218	14	14	30	30	44
Citrus Fruit Surface Pest	A.R.S. § 3-201.01 R3-4-219	14	14	60	30	74
Citrus Nursery Stock Pests	A.R.S. § 3-201.01 R3-4-220	14	14	30	30	44
Lettuce Mosaic Pest	A.R.S. § 3-201.01 R3-4-233	14	14	30	30	44
Noxious Weeds Regulated and Restricted Prohibited	A.R.S. § 3-201.01 R3-4-244 R3-4-245	14	14	30	30	44
Scale Insects Pests	A.R.S. § 3-201.01 R3-4-226	14	14	30	30	44
Plum Curculio Apple Maggot	A.R.S. § 3-201.01 R3-4-240	14	14	60	30	74
Colored Cotton	A.R.S. § 3-205.02 R3-4-501	14	0	0	0	14
<b>NURSERY</b>						
Ozonium Root Rot Inspection	A.R.S. § 3-201.01 A.R.S. § 3-217 R3-4-303	7	14	30	14	37
• Method of Growing		7	14	4 yrs	14	4 yrs, 7 days
• Indicator Crop Planted on Applicant's Property		7	14	5 yrs	14	5 yrs, 7 days
• Indicator Crop Planted in Sur- rounding Area						
Other Certification Inspections	A.R.S. § 3-201.01 A.R.S. § 3-217	30	14	1 yr	14	1 yr, 30 days
• Nursery Inspection						
Phytosanitary Field Inspection	A.R.S. § 3- 233(A)(7) R3-4-407	30	7	210	7	240
<b>STANDARDIZATION</b>						

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Experimental Pack and Product for Fruit and Vegetables	A.R.S. § 3-487 R3-4-740	7	7	7	7	14
Experimental Pack and Product for Citrus Fruit	A.R.S. § 3-445 R3-4-814	7	7	7	7	14
Citrus Fruit Dealer, Packer, or Shipper License	A.R.S. § 3-449	14	14	14	14	28
Fruit and Vegetable Dealer, Packer, or Shipper License	A.R.S. § 3-492	14	14	14	14	28
<b>SEED DEALERS AND LABELERS</b>						
Seed Dealer	A.R.S. § 3-235 R3-4-408	14	14	14	14	28
Seed Labeler	A.R.S. § 3-235 R3-4-408	14	14	14	14	28

**Historical Note**

Table 1 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 3812, effective August 10, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended Section references under Arizona Native Plants to correspond to recodification at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2665, effective June 8, 2004 (Supp. 04-2).

**ARTICLE 2. QUARANTINE****R3-4-201. Transportation and Packaging**

- A.** Any commodity shipped or transported into the state shall be inspected to determine whether the commodity is free of all pests subject to federal and state laws and rules.
- B.** Each commodity shipped or transported into the state shall display the following information on a bill of lading, manifest, freight bill, or on the outside of the carton;
1. The name and address of the shipper and receiver;
  2. A certificate of inspection for nursery stock, if applicable;
  3. The botanical or common name of the commodity;
  4. The quantity of each type of commodity;
  5. The state or foreign country where each commodity originated;
  6. Any other certificate required by this Article.
- C.** Packaging.
1. Any commodity shipped or transported into the state shall be packaged or wrapped in a manner to allow inspection by an inspector.
  2. The following and other similar types of packages are prohibited:
    - a. Packages that cannot be opened without destroying either the package or its contents;
    - b. Packages that cannot, once opened, be resealed after inspection without the inspector supplying additional packing material to protect the contents;
    - c. Commodities that are packaged or sealed with wire or seals that cannot be opened and resealed without special tools or equipment;
    - d. Clear or colored waxes applied to a commodity that prevent inspection.
- D.** Restrictions.
1. Nursery stock shipments shall not enter Arizona between 8:00 a.m. Friday and 12:01 a.m. Monday, or during a legal holiday.
  2. Common and private carriers. A carrier shall declare all commodities at a port-of-entry.
    - a. All carriers shall hold a commodity until it is inspected by an inspector and a Certificate of Release, under A.R.S. § 3-209, is issued. The Director may authorize a carrier to deliver a commodity to a consignee before the inspection.
      - i. If the commodity requiring inspection cannot be adequately inspected, the inspector may place the commodity under a "Warning-Hold for Agricultural Inspection."
      - ii. The inspector may seal the truck to prevent the likelihood of spreading harmful pests.
    - b. When a carrier enters the state at a port-of-entry where agriculture inspections are performed, the driver shall:
      - i. Provide the inspector with the bill of lading, manifest, or a short-form manifest signed by the company's authorized agent responsible for supervising the loading of the contents in the shipment;
      - ii. Open the vehicle and expose the contents for inspection; and
      - iii. Assist the inspector in gaining access to the contents.
    - c. When a carrier enters the state at a port-of-entry where no agricultural inspections are performed, the carrier shall follow procedures specified in subsection (D)(2)(b), proceed to destination for inspection, and provide the following information on a Load Report form:
      - i. The name, address, and telephone number of the shipper;
      - ii. The name, address, and telephone number of the primary receiver;
      - iii. The name and address of the carrier;
      - iv. The tractor unit number and trailer license number; and
      - v. The name and address of additional receivers, if any.

3. Bulk mail facility. All commodities entering a bulk mail facility shall be held for inspection. The commodity shall not be released until an inspector inspects the commodity and issues a Certificate of Release.
  4. Railroad. Any commodity shipped by railroad shall be inspected at destination. The responsible party shall notify the Director in advance of the shipment to schedule an inspection of the commodity.
  5. Out-of-state destination. If a commodity requiring inspection is shipped to a point outside the state, and is confirmed by a short-form manifest, freight bill, or bill of lading, the inspector shall give the driver a notice in writing, or by transit stamp, that the shipment is under quarantine while in the state, and it is unlawful to dispose of the shipment in any way unless the shipment is inspected and released by an inspector.
  6. Certificate of Release. Any person receiving a commodity from a post office, United Parcel Service terminal, or any carrier without a Certificate of Release shall immediately notify the Department and request an inspection.
- E. Disposition of commodity.** When a carrier is in possession of, or responsible for, a commodity inspected by an inspector and found in violation of Arizona quarantine laws, and elects to ship the commodity out-of-state:
1. The inspector shall issue a "Warning-Hold for Agricultural Inspection" notice to the carrier. The carrier shall hold the notice until the commodity is removed from the state through a port-of-entry designated by the inspector and the removal is noted on the notice.
  2. The carrier shall surrender the "Warning-Hold for Agricultural Inspection" notice (driver's copy) at the port-of-entry specified on the notice.
- F. Violations.**
1. The inspector shall place any commodities not meeting the requirements of subsections (C)(1) and (C)(2) under quarantine and notify the shipper in writing of the following options:
    - a. Reship the commodity out-of-state;
    - b. Provide the necessary labor and material to open the package and reseal it after inspection; or
    - c. Under the supervision of an inspector, destroy the shipment.
  2. Any person who violates any of the following provisions shall submit the load for complete inspection at a port-of-entry, or where apprehended;
    - a. Fails to comply with requirements on the "Warning-Hold for Agricultural Inspection" notice;
    - b. Fails to comply with the inspector's instructions;
    - c. Breaks the seals of a sealed vehicle; or
    - d. Delivers a product under quarantine before it is released by an inspector, or authorized by the Director.

**Historical Note**

Former Rule, Quarantine Regulation 2; Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-50 repealed, new Section R3-4-50 adopted effective October 23, 1978 (Supp. 78-5). Section R3-1-50 renumbered to R3-4-201 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-202. Repealed****Historical Note**

Former Rule, Quarantine Regulation 3. Section R3-1-51 renumbered to R3-4-202 (Supp. 91-4). Section repealed

by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-203. Repealed****Historical Note**

Former Rule, Quarantine Regulation 4. Repealed effective October 23, 1978 (Supp. 78-5). Section R3-1-52 renumbered to R3-4-203 (Supp. 91-4).

**R3-4-204. Pink Bollworm and the Cotton Boll Weevil Complex**

- A. Definitions.** In addition to the definitions provided in A.R.S. § 3-201 and R3-4-101, the following terms apply to this Section:
1. "Crop remnant" means the stalks, leaves, bolls, lint, pods, and seeds of cotton;
  2. "Pests" means the pink bollworm, *Pectinophora gossypiella* (Saunders), and the boll weevil complex, *Anthonomus grandis* Boheman complex.
- B. Covered commodities.** The following commodities are host plants or carriers of the pests:
1. Cotton, all parts;
  2. Cotton gin trash;
  3. Used cotton harvesting machines; and
  4. Other materials, products, and equipment that are means of disseminating or proliferating the pests.
- C. Processing cotton gin trash.** Any person operating an Arizona cotton gin shall daily destroy cotton gin trash by using a disposal fan as prescribed by the *United States Department of Agriculture Domestic Program Manual*, M301.52 Regulatory Procedures (III)(C)(4), revised December 1979. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- D. Movement of covered commodities.**
1. No covered commodity produced or located within an area infested with the pests may be moved out of that area unless a permit is issued by the Director. Any person intending to move, transport, or allow the movement of a covered commodity shall provide the Department with the following information before the date of movement or shipment:
    - a. The quantity of the covered commodity to be moved;
    - b. The location of the commodity;
    - c. The names and addresses of the consignee and consignor;
    - d. The method of shipment; and
    - e. The scheduled date of the shipment.
  2. The shipper shall attach all permits to the manifest, waybill, or bill of lading which shall accompany the shipment. Permits shall specify the manner of handling or treating the host plant or commodity. Pink bollworm treatment shall be under official supervision and applied as prescribed for cotton products in the *USDA Treatment Manual*, revised April 1998. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- E. Cultural practices.**
1. Arizona's cultural zones are:
    - a. Zone "A" -- Yuma County west of a line extended directly north and directly south of Avenue 58E.
    - b. Zone "B" -- Cochise County, Graham County, and Greenlee County.
    - c. Zone "C" -- Mohave County, La Paz County, except the Cibola Valley, and T6N, R11W, 12W, 13W;



- T5N, R13W; T4N, R12W, 14W, 15W; T3N, R10W, 11W; T2N, R11W.
- d. Zone “D” -- Pima County and the following portions of Pinal County: T10S, R10E, section 34, 35, and 36, T10S, R11E, section 31, T7S, R16E, T6S, R16E, T5S, R15E, and T4S, R14E, and the Aguila area T7N, R8W and T7N, R9W and T7N, R10W and T7N, R11W to the western boundary of section 35, 26, and 23.
  - e. Zone “E” -- The following portions of La Paz County: Cibola Valley TIN, R23W and TIN, R24W and T1S, R23W and T1S, R24W.
  - f. Zone “F” -- All portions of the state not included in zones “A”, “B”, “C”, “D”, and “E.”
2. No stub, soca, or volunteer cotton shall be grown in or allowed to grow in the state. The landowner shall be responsible for eliminating stub, soca, or volunteer cotton.
  3. Tillage deadline. Except as provided in subsection (E)(4), a grower shall ensure that a crop remnant of a host plant remaining in the field after harvest is shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil before the following dates or before planting another crop, whichever occurs earlier: Zone “A”, December 15; Zone “B”, March 1; Zone “C”, January 15; Zone “D”, March 1; Zone “E”, January 31; Zone “F”, February 15.
  4. Rotational crop following cotton harvest.
    - a. If a grower elects to plant a small-grain crop following a cotton harvest, the grower may, after the host plant is shredded, irrigate and plant with wheat, barley, or oats instead of tilling as prescribed in subsection (E)(3). The small-grain crop shall be planted before the following dates: Zone “A”, December 30; Zone “B”, March 1; Zone “C”, January 30; Zone “D”, March 1; Zone “E”, January 31; Zone “F”, February 15.
    - b. The Director shall approve other small-grain crops not specifically listed in subsection (E)(4)(a), if the planting, growth, and harvest cycles of the small-grain crop prevents the maturation of stub, soca, or volunteer cotton. A grower shall submit a written request for approval of a small-grain crop, other than wheat, barley, or oats, at least 30 days before the planting date. The written request shall include the scientific and common name of the proposed small-grain crop and the estimated date of harvest.
    - c. If a grower elects to plant a crop other than an approved small-grain crop following a cotton harvest, the requirements specified in subsection (E)(3) apply.
  5. Planting dates.
    - a. A grower who meets the tillage deadline specified in subsection (E)(3) for the preceding cotton crop year shall not plant cotton before the following dates: Zone “A”, February 1; Zone “B”, March 15; Zone “C”, March 1; Zone “D”, March 15; Zone “E”, March 1; Zone “F”, March 1.
    - b. A grower who does not meet the tillage deadline specified in subsection (E)(3) for the preceding cotton crop year shall not plant cotton before the following dates: Zone “A”, February 15; Zone “B”, March 15; Zone “C”, March 15; Zone “D”, March 15; Zone “E”, March 1; Zone “F”, March 1.
  6. Dry planting. Any grower who uses the practice of dry planting may plant cotton 10 days before the planting date for that zone, but shall not water until the planting date.
  7. An inspector shall give written notice to any landowner found in violation of subsection (E). The processes established in subsections (E)(3) and (E)(4) shall be repeated, as necessary, to destroy the pests.
- F. Advisory Committee.** The Director shall appoint an advisory committee consisting of one representative from each of the following organizations, and the committee shall make recommendations to the Department on amendments to this Section:
- The Arizona Cotton Growers Association,
  - The Arizona Farm Bureau Federation,
  - The Arizona Crop Protection Association,
  - The Southwest Indian Agricultural Association,
  - The University of Arizona Experiment Station,
  - The University of Arizona Extension Service,
  - USDA-Research,
  - USDA-APHIS,
  - The Department of Agriculture, and
  - A grower from each of the six zones.

#### Historical Note

Former Rule, Quarantine Regulation 5. Amended effective January 24, 1978 (Supp. 78-1). Former Section R3-4-53 repealed, new Section R3-4-53 adopted effective December 2, 1982. See also R3-4-53.01 through R3-4-53.07 (Supp. 82-6). Section R3-1-53 renumbered to R3-4-204 (Supp. 91-4). Section repealed, new Section adopted effective May 7, 1993 (Supp. 93-2). Amended effective September 22, 1994 (Supp. 94-3). Amended effective July 10, 1995 (Supp. 95-3). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2).

#### R3-4-205. Renumbered

#### Historical Note

Adopted effective December 2, 1982. See also R3-4-53 and R3-4-53.02 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.01 renumbered to R3-4-205 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2). New Section adopted effective December 20, 1994 (Supp. 94-4). Section R3-4-205 renumbered to R3-4-501 and amended, effective April 9, 1998 (Supp. 98-2).

#### R3-4-206. Repealed

#### Historical Note

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 and R3-4-53.03 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.02 renumbered to R3-4-206 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

#### R3-4-207. Repealed

#### Historical Note

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01, R3-4-53.02 and R3-4-53.04 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.03 renumbered to R3-4-207 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

#### R3-4-208. Repealed

#### Historical Note

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.03 and R3-4-53.05 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.04 renum-

bered to R3-4-208 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

### **R3-4-209. Repealed**

#### **Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.04, R3-4-53.06, and R3-4-53.07 (Supp. 82-6). Amended effective October 21, 1983 (Supp. 83-5). Amended effective July 24, 1985 (Supp. 85-4). Amended effective May 5, 1986 (Supp. 86-3). Amended effective May 10, 1988 (Supp. 88-2). Amended subsection (B) effective December 27, 1988 (Supp. 88-4). Amended effective December 22, 1989 (Supp. 89-4). Section R3-1-53.06 renumbered to R3-4-209 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

### **R3-4-210. Repealed**

#### **Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.05 and R3-4-53.07 (Supp. 82-6). Section R3-1-53.06 renumbered to R3-4-210 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

### **R3-4-211. Repealed**

#### **Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.06 (Supp. 82-6). Section R3-1-53.07 renumbered to R3-4-211 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

### **R3-4-212. Repealed**

#### **Historical Note**

Former Rule, Quarantine Regulation 6. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54 adopted as an emergency now adopted without change effective May 15, 1984. See also R3-4-54.01 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54 renumbered to R3-4-212 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-213. Repealed**

#### **Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.01 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.02 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54.01 renumbered to R3-4-213 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-214. Repealed**

#### **Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90

days (Supp. 84-1). Emergency expired. Former Section R3-4-54.02 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.03 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54.02 renumbered to R3-4-214 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-215. Repealed**

#### **Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.03 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.02, R3-4-54.04 and R3-4-54.05 (Supp. 84-3). Section R3-1-54.03 renumbered to R3-4-215 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-216. Repealed**

#### **Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.04 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.03, and R3-4-54.05 (Supp. 84-3). Section R3-1-54.04 renumbered to R3-4-216 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-217. Repealed**

#### **Historical Note**

Adopted effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.04 (Supp. 84-3). Section R3-1-54.05 renumbered to R3-4-217 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

### **R3-4-218. Cotton Boll Weevil Pest**

#### **A. Definitions**

1. "Cotton appliance" means a container used in handling cotton, including sacks, bags, tarps, boxes, crates, and machinery used in planting, harvesting and transporting cotton.
2. "Cotton lint" means the remnant produced when cottonseed is processed in a gin.
3. "Cotton plant" means all parts of *Gossypium* spp., whether wild or domesticated.
4. "Cottonseed" means a seed derived from cotton plants which is destined for propagation or other use.
5. "Fumigation certificate" means a document for a prohibited product signed by a state or U.S.D.A. agricultural inspector, which specifies the chemical used, the treatment schedule, and the commodity treated.
6. "Gin trash" means organic waste or materials resulting from the ginning of cotton.
7. "Hibiscus" means all parts of *Hibiscus* spp.
8. "Prohibited products" means any cotton product as defined in subsection (A).
9. "Spanish moss" means all parts of *Tillandsia usneoides*.

#### **B. Quarantine**

1. A quarantine is established against the Cotton Boll Weevil, *Anthonomus grandis* Boheman.
2. The area under quarantine shall apply to cotton producing states, with the exception of California.

- C. Prohibited Products.** Except as provided in subsections (D), (E), and (F), the following cotton products shall be prohibited from entering Arizona.
1. Gin trash
  2. Cotton lint
  3. Cottonseed
  4. Used cotton appliances which have any cotton plants attached or contained therein.
  5. Cotton plants
  6. Spanish Moss
  7. Hibiscus plants
- D. Special permits**
1. Individuals may apply to the Director of the Commission of Agriculture and Horticulture for a special permit for shipment of prohibited products into Arizona from the quarantine area. Applicants for the special permit shall submit a letter to the Commission which includes the following information.
    - a. Quantity of prohibited product to be shipped into Arizona.
    - b. County and state of origin of prohibited product.
    - c. Shipper's name, address, and phone number.
    - d. Carrier's name, address, and phone number.
    - e. Arizona destination receiver, address, and phone number.
    - f. Treatments or processing techniques at place of origin, including name of processor.
    - g. Final disposition of prohibited product in Arizona.
    - h. Calendar period during which shipments are to be made.
    - i. Method of shipment, i.e., truck, rail, etc.
    - j. Route by which prohibited product will be shipped.
  2. Applicants may apply for a special permit for the following:
    - a. Cottonseed which has been treated by one of the following methods:
      - i. Acid or flame process in a gin;
      - ii. Machine processed by grinding or pulverizing;
      - iii. Heat treatment as specified in attached Appendix; or
      - iv. Fumigation;
    - b. Spanish Moss which has been treated by one of the following methods:
      - i. Commercial drying; or
      - ii. Chemical treatment using a pesticide which is registered and labeled for use on such commodities to kill boll weevil.
    - c. Cotton list which has been impact-fan treated in a gin.
3. A special permit shall be issued by the Director upon a determination that the treatments or processing techniques specified in subsection (D)(2) which have been used on the prohibited products will prevent the entry of the Cotton Boll Weevil pest into Arizona. A transporter may not transport a prohibited product into Arizona without first receiving a special permit. Said special permit shall be presented on demand.
- E. Certificate of Fumigation.** The following products shall be allowed entry into Arizona if accompanied by a Certificate of Fumigation demonstrating compliance with fumigation procedures specified in the attached Appendix.
1. Used cotton appliances which have cotton plants attached or contained therein.
  2. Spanish Moss.
  3. Gin trash.
- F. Special Shipments.** The following prohibited products shall be allowed entry into Arizona without a special permit or Certificate of Fumigation:
1. Spanish Moss in quantities of less than one pound which is intended for private decorative use and which has been found free of pests by a Commission inspector.
  2. Potted Hibiscus plants, fewer than 12 in number, transported in private vehicles which have been found free of pests by a Commission inspector.
- G. Violations.** Products shipped into or moved within the state of Arizona in violation of this rule shall, at the option and expense of the owner or authorized agent, be sent out of the state or destroyed in accordance with A.R.S. §§ 3-207, 3-208, 3-209, and 3-210.

**Appendix to R3-4-218**

- A. Cottonseed, sacked or packaged, Methyl Bromide fumigation, vacuum method. This method may be used for the treatment of small lots of cottonseed samples only. A sustained vacuum equivalent to 24.5 inches of mercury shall be maintained.

Type of Enclosure	Exposure Period Dosage Temperature (° F)	lbs/100 cu. ft.	Exposure Period
Chamber Vacuum	40° or above	4 lbs.	2 hours

- B. Cottonseed, sacked or packaged, by Methyl Bromide fumigation, atmosphere fumigation method.

Type of Enclosure	Average Load Temperature (° F)	Exposure Period Dosage		Circulation Period
		12 hours Lbs/1000 cu. ft.	24 hours Lbs/1000 cu. ft.	
Chamber or Tanks	60° or above	6	3	30 min.
	Below 60°	7	4	30 min.
Freight Cars and Vans	60° or above	-	7	30 min.
	Below 60°	-	8	60 min.
Tarpaulins	40° or above	7	5	60 min.
	Below 40°	8	6	120 min.

Limitations: The sacks or packages containing the prohibited product shall not be composed of a nonpermeable layer such as a polyethelene or cellophane film, wax paper or tar.

- C. Bulk cottonseed, cottonseed hulls, gin trash, and Methyl Bromide fumigation, atmospheric pressure method.

Type of Enclosure	Average Load Temperature (F°)	Exposure Period Dosage		Circulation Period
		12 hours Lbs/1000 cu. ft.	24 hours Lbs/1000 cu. ft.	
Chamber or Tanks	60° or above	6	4	15 min.
	Below 60°	7	5	15 min.
Freight Cars and Vans	60° or above	-	7	15 min.
	Below 60°	-	8	30 min.
Tarpaulins	40° or above	7	5	15 min.
	Below 40°	8	6	30 min.

Limitations: When treating bulk commodities, the depth of the commodities shall be kept under five feet unless an approved forced circulation system is used to assure satisfactory distribution of fumigant.

- D. Bulk propagative cottonseed, Methyl Bromide fumigation, atmospheric pressure method.

Type of Enclosure	Exposure Period Dosage	Circulation Period
Plastic and neoprene coated nylon bags	1-20 cc ampule	24 hours
2 1/2 feet x 6 feet	2-20 cc ampules	12 hours

- E. Cotton appliances, Methyl Bromide fumigation, atmospheric pressure method.

Type of Enclosure	Average Load Temperature (° F)	Exposure Period Dosage			Circulation Period
		3 hours Lbs/1000 cu. ft.	4 hours Lbs/1000 cu. ft.	12 hours Lbs/100 cu. ft.	
Chamber or Tanks	40° or above	8	-	4	30 min.
	30° - 39°	9	-	5	30 min.
	Below 30°	-	-	5	30 min.
Freight Cars and Vans	40° or above	8	-	4	30 min.
	30° - 39°	9	-	5	30 min.
	Below 30°	-	9	5	30 min.
Tarpaulins	40° or above	8	-	4	30 min.
	30° - 39°	9	-	5	30 min.
	Below 30°	-	9	5	30 min.

- F. Cotton sacks or small appliances, Methyl Bromide fumigation, atmospheric pressure method.

Type of Enclosure	Exposure Period Dosage	Circulation Period
Plastic and neoprene coated nylon bags	1-20 cc ampule 1/2 loaded bag	3 hours
2 1/2 feet x 6 feet	2-20 cc ampules more than 1/2 loaded bag	3 hours

- G. Bulk cottonseed, heat treatment method. Heat to core temperature of 150° F minimum and hold at that temp. for 30 seconds minimum.

**Historical Note**

Former Rule, Quarantine Regulation 7. Section R3-4-55 repealed, new Section adopted effective August 16, 1990 (Supp. 90-3).

Section R3-1-55 renumbered to R3-4-218 (Supp. 91-4).

**R3-4-219. Citrus Fruit Surface Pest****A. Definitions.**

“Pest” means all life stages of the following:

*Aonidiella aurantii*, California red scale;  
*Aonidiella citrina*, Yellow scale;  
*Asynonychus godmani*, Fuller rose beetle;  
*Chrysomphalus aonidum*, Florida red scale;  
*Cornuaspis beckii*, Purple scale;  
*Lepidosaphes gloverii*, Glover scale;  
*Maconellicoccus hirsutus*, Pink hibiscus mealybug;  
*Parlatoria pergandii*, Chaff scale;  
*Phyllocoptruta oleivora*, Citrus rust mite; or  
*Pseudococcus comstocki*, Comstock mealybug.

**B. Area under quarantine.** All states, territories, and districts of the United States, except the state of Arizona.**C. Regulated commodities and appliances.**

1. Commodities. The fresh fruit of all species, varieties, and hybrids of the genera *Citrus*, *Fortunella*, and *Poncirus*.
2. Appliances. An appliance used in a citrus grove, citrus nursery, or other area to pick, pack, or handle a regulated commodity listed in subsection (C)(1).

**D. Restrictions.**

1. A person who ships into Arizona a regulated commodity or appliance listed in subsection (C) shall ensure that the commodity or appliance is free of stems, leaves, and plant parts.
2. A person shall not ship into Arizona a regulated commodity or appliance from an area under quarantine unless each shipment is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that the regulated commodity or appliance was treated by a method listed in subsection (F), under the official's supervision.

**E. Exemption.** The Director shall issue a permit to allow a regulated commodity from an area under quarantine to enter Arizona without treatment as prescribed in subsection (F) if the applicant complies with all conditions of the permit and the regulated commodity:

1. Originates from an area that a plant regulatory official of the state of origin certifies as pest-free; or
2. Is shipped to an Arizona juicing facility located outside of Yuma County; or
3. Is commercially packaged and is shipped to an Arizona business that will redistribute the regulated commodity out-of-state.

**F. Treatment.**

1. Hydrogen cyanide fumigation. The regulated commodity shall be treated for one hour at the following rate:

Pulp Temperature	Rate per 100 cu. ft.
60° F to 85° F	25 cc HCN gas

2. Methyl bromide fumigation (Q label). The regulated commodity shall be treated for two hours at one of the following rates:

Pulp Temperature	Rate per 1000 cu. ft.
60° F to 79° F	3 lbs.
80° F or higher	2 1/2 lbs.

3. Irradiation. The regulated commodity shall be treated at a rate approved by the Director.
4. Steam treatment. The regulated appliance shall be cleaned to remove all fruit, leaves, stems, and other debris and then steam-treated.

5. Other treatment. The regulated commodity or appliance shall be treated by any other method approved by the Director.

**G. Disposition of regulated commodity or appliance not in compliance.** A regulated commodity or appliance shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.**Historical Note**

Former Rule, Quarantine Regulation 8. Repealed effective December 19, 1980 (Supp. 80-6). Adopted as an emergency effective April 11, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency adoption expired. Permanent rule adopted effective November 15, 1984 (Supp. 84-6). Former Section R3-4-56 repealed, former Sections R3-4-56.01 through R3-4-56.04 renumbered and amended as Section R3-4-56 effective June 20, 1986 (Supp. 86-3). Repealed June 29, 1990 (Supp. 90-2). New Section adopted effective April 11, 1991 (Supp. 91-2). Section R3-1-56 renumbered to R3-4-219 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3).

**R3-4-220. Citrus Nursery Stock Pests****A. Definitions.** “Pest” means any of the following viral diseases or arthropods:

1. Viral diseases:  
Cachexia (CVD-II),  
Citrus Exocortis Virus (CEVd),  
Citrus Psorosis Virus (CPsV), or  
Citrus Tristeza Virus (CTV).
2. Arthropods. All life stages of:  
*Aceria sheldoni*, Citrus bud mite;  
*Maconellicoccus hirsutus*, Pink hibiscus mealybug;  
*Phyllocoptruta oleivora*, Citrus rust mite; or  
*Pseudococcus comstocki*, Comstock mealybug.

**B. Area under quarantine.** All states, territories, and districts of the United States, except the state of Arizona.**C. Regulated commodities and appliances.**

1. Commodities. A plant or plant part, except seed or attached green fruit, of all species, varieties, or hybrids of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Poncirus*, and *Microcitrus*.
2. Appliances. An appliance used in a citrus grove, citrus nursery, or other area to handle citrus nursery stock listed in subsection (C)(1).

**D. Restrictions.**

1. A person may ship a regulated commodity into Arizona from an area under quarantine if the regulated commodity is accompanied by a certificate issued by a plant regulatory official from the origin state, attesting that the commodity:
  - a. Originates from an area not under quarantine for citrus tristeza virus, and
  - b. Originates from a source tree that is:
    - i. Tested for Cachexia, citrus exocortis virus, and citrus psorosis virus; or
    - ii. From budwood tested for Cachexia, citrus exocortis virus, and citrus psorosis virus; and
    - iii. Tested annually for citrus tristeza virus; and
  - c. Was treated within five days before shipment with a chemical to kill the arthropod pests listed in subsection (A)(2), and that the commodity is free of all live life stages of the arthropod pests listed in subsection (A)(2).

2. A person shall not ship a Meyer lemon plant or plant part, except fruit, into Arizona. An exception is allowed for the selection Improved Meyer lemon plant or plant part, which may be shipped into Arizona in compliance with this Section.
3. A person shipping a regulated commodity into Arizona shall attach a single tag or label to each plant or plant part, or to each individual container containing a plant or plant part, that is intended for resale by an Arizona receiver. The tag or label shall contain the following information separately provided for each scion variety grafted to a single rootstock:
  - a. Name and address of the nursery that propagated the plant,
  - b. Scion variety name,
  - c. Scion variety registration number, and
  - d. Rootstock variety name.
4. A person shipping a regulated commodity into Arizona shall ensure the commodity complies with the entry requirements prescribed in R3-4-226 and R3-4-238.
5. A person may ship a regulated appliance into Arizona if the appliance is accompanied by a certificate issued by a plant regulatory official from the origin state. The certificate shall state that the appliance was treated within five days before shipment with a chemical to kill the arthropod pests listed in subsection (A)(2), and that the appliance is free of all live life stages of the arthropod pests listed in subsection (A)(2).

- E.** Disposition of regulated commodity or appliance not in compliance. A regulated commodity or appliance shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out-of-state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

#### Historical Note

Former Rule, Quarantine Regulation 9. Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-57 renumbered to R3-4-220 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4).

#### R3-4-221. Repealed

#### Historical Note

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.01 renumbered to R3-4-221 (Supp. 91-4).

#### R3-4-222. Repealed

#### Historical Note

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.02 renumbered to R3-4-222 (Supp. 91-4).

#### R3-4-223. Repealed

#### Historical Note

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2).

90-2). Section R3-1-57.03 renumbered to R3-4-223 (Supp. 91-4).

#### R3-4-224. Repealed

#### Historical Note

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.04 renumbered to R3-4-224 (Supp. 91-4).

#### R3-4-225. Repealed

#### Historical Note

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.05 renumbered to R3-4-225 (Supp. 91-4).

#### R3-4-226. Scale Insect Pests

- A.** Definitions.  
 "Pest" means all life stages of the following:  
*Aonidiella aurantii*, California red scale;  
*Aonidiella citrine*, Yellow scale;  
*Chrysomphalus aonidum*, Florida red scale; or  
*Pulvinaria psidi*, Green shield scale.
- B.** Area under quarantine. The entire states of Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, and Texas, and the Commonwealth of Puerto Rico.
- C.** Regulated commodities. Plants and all plant parts, except seed, of the genera listed below:  
*Camellia*,  
*Chrysalidocarpus*,  
*Citrus*,  
*Cycas*,  
*Dracaena*,  
*Eremocitrus*,  
*Euonymus*,  
*Ficus*,  
*Fortunella*,  
*Ilex*,  
*Ligustrum*,  
*Microcitrus*,  
*Poncirus*, and  
*Rosa*
- D.** Restrictions. A person may ship a regulated commodity to Arizona from an area under quarantine if each shipment is accompanied by a certificate issued by a plant regulatory official of the origin state within five days before shipment attesting that one of the following is true:
1. A regulated commodity of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Microcitrus*, and *Poncirus* was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A);
  2. A regulated commodity not listed in subsection (D)(1):
    - a. Was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A); or
    - b. Originated from a nursery with a pest management program recognized and monitored by the origin state to control the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A).
- E.** Disposition of regulated commodity not in compliance. A regulated commodity shipped into Arizona in violation of this

Section shall be destroyed, treated, or transported out-of-state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

#### Historical Note

Former Rule, Quarantine Regulation 10; Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-58 repealed, new Section R3-4-58 adopted effective July 13, 1989 (Supp. 89-3). Section R3-1-58 renumbered to R3-4-226 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4).

#### R3-4-227. Repealed

#### Historical Note

Former Rule, Quarantine Regulation 11. Section R3-1-59 renumbered to R3-4-227 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

#### R3-4-228. European Corn Borer

##### A. Definitions. The following terms apply in this Section:

“Corn” means *Zea* spp.

“Fragment” means a portion of a regulated commodity that cannot pass through a 1/2” aperture or a completely whole, round, and uncrushed piece of cob, stalk, or stem of at least 1” in length and 3/16” in diameter.

“Pest” means all life stages of the European corn borer, *Ostrinia nubilalis*.

“Shelled grain” means the seed or kernel of corn or sorghum that has been separated from every other plant part.

“Sorghum” means *Sorghum* spp.

##### B. Area under quarantine.

1. The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.
2. The District of Columbia.
3. In the state of Florida, the following counties: Calhoun, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Madison, Okaloosa, and Santa Rosa.
4. In the state of Louisiana, the following parishes: Bossier, Caddo, Concordia, East Carroll, Franklin, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Tensas, and West Carroll.
5. In the state of New Mexico, the following counties: Chaves, Curry, Quay, Roosevelt, San Juan, Santa Fe, Torrance, Union, and Valencia.
6. In the state of Texas, the following counties: Bailey, Carson, Castro, Dallam, Deaf Smith, Floyd, Gray, Hale, Hansford, Hartley, Hutchinson, Lamb, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, and Swisher.

##### C. Regulated commodities. The plants corn and sorghum and every plant part, including seed, shelled grain, stalks, ears, cobs, fragments, and debris are regulated commodities under this Section.

##### D. Restrictions. A person shall not ship into Arizona a regulated commodity from an area under quarantine unless each shipment is accompanied by an original certificate, issued by a plant regulatory official of the state of origin, attesting that the

regulated commodity was treated by a method listed in subsection (F), under the official’s supervision.

##### E. Exemptions.

1. Treatment prescribed in subsection (F) is waived for all of the following:
  - a. Shelled grain, if the grain is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that:
    - i. The shelled grain was passed through a 1/2” or smaller-size mesh screen at the place of origin, and
    - ii. The shipment is free of plant fragments capable of harboring the larval life stage of the pest;
  - b. Commercially packaged shelled popcorn, planting seed, and grain for human consumption; or
  - c. A regulated commodity manufactured or processed by a method that eliminates the pest.
2. The Director shall issue a permit to allow a regulated commodity from an area under quarantine, other than one exempt under subsection (E)(1), to enter Arizona without the treatment prescribed in subsection (F) if the regulated commodity originates from an area certified as pest free by a plant regulatory official of the state of origin.

##### F. Treatment.

1. Methyl bromide fumigation (Q label) applied at label rates.
2. Any other treatment approved by the Director.

##### G. Disposition. If a person ships a regulated commodity into Arizona in violation of this Section, the regulated commodity shall be destroyed, treated, or transported out-of-state as prescribed in A.R.S. Title 3, Chapter 2, Article 1.

#### Historical Note

Former Rule, Quarantine Regulation 12. Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (C) effective January 21, 1981 (Supp. 81-1). Amended effective August 11, 1987 (Supp. 87-3). Section R3-1-60 renumbered to R3-4-228 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3374, effective October 2, 2004 (Supp. 04-3).

#### R3-4-229. Nut Tree Pests

##### A. In addition to the definitions provided in A.R.S. § 3-201 and R3-4-102, the following terms apply to this Section:

1. “Brooming” means a virus-like disease that drastically reduces nut production and sometimes causes death of the host tree.
2. “Pest” means any of the following:
  - a. Pecan leaf casebearer, *Acrobasis juglandis* (LeBaron);
  - b. Pecan nut casebearer, *Acrobasis nuxvorella* (Neunzig);
  - c. Pecan phylloxera, *Phylloxera devastatrix*;
  - d. The pathogen that causes brooming disease of walnut.

##### B. Area under quarantine: All states, districts, and territories of the United States except California.

##### C. Infested area.

1. For *Acrobasis* spp.: All states and districts east of and including the states of Montana, Wyoming, Colorado, Oklahoma, and Texas; in New Mexico, the counties of Chaves, Lea, Roosevelt, Eddy, Dona Ana, Otero, and Quay.
2. For pecan phylloxera: Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

3. For brooming disease of walnut: All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.

**D. Commodities covered:**

1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:
  - a. Hickory and pecan (*Carya* spp.);
  - b. Walnut and butternut (*Juglans* spp.);
2. Pecan firewood;
3. Any used appliance, used box, or sack used during the growing, harvesting, handling, transporting, or storing nuts and hulls.

**E. Restrictions:**

1. The commodities listed in subsection (D)(1) shall be admitted into Arizona:
  - a. From the infested area prescribed in subsections (C)(1) and (C)(2) if treated at origin and each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (F);
  - b. From an area under quarantine outside the infested area, if each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(2)(a), (b), and (c).
2. The commodities listed in subsection (D)(1)(b) shall be:
  - a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);
  - b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), if each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming brooming is unknown in the origin county.
3. The commodities listed in subsections (D)(2) and (D)(3) are prohibited from entering the state unless fumigated as prescribed in subsection (F)(1).

**F. Treatments:**

1. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 minutes, as follows:
  - a. 2 lbs. per 1,000 cu.ft. for four hours at 70° F or more,
  - b. 3 lbs. per 1,000 cu.ft. for four hours at 60-69° F.
2. A hot-water dip at 140° F or more for a minimum of 30 continuous seconds.
3. Appliances.
  - a. Steam-cleaned, inspected, and certified free from debris by the origin state, or
  - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
4. Any other treatment approved by the Associate Director.

**Historical Note**

Former Rule, Quarantine Regulation 13. Amended subsections (C), (E) and (G) effective May 5, 1986 (Supp. 86-3). Section R3-1-61 renumbered to R3-4-229 (Supp. 91-4). Amended effective January 16, 1996 (Supp. 96-1). Amended by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4). Subsection citation in subsection (E)(1)(b) amended to correct manifest typographical error (Supp. 03-2).

**R3-4-230. Repealed****Historical Note**

Former Rule, Quarantine Regulation 14. Section R3-1-62 renumbered to R3-4-230 (Supp. 91-4). Section repealed by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3).

**R3-4-231. Nut Pests**

- A. Definition.** In addition to the definitions provided in A.R.S. § 3-201 and R3-4-102, the following term applies to this Section:

“Pest” means any of the following:

1. Pecan weevil, *Curculio caryae* (Horn);
2. Butternut curculio, *Conotrachelus juglandis* LeC;
3. Black walnut curculio, *Conotrachelus retentus* Say;
4. Hickory shuckworm, *Laspeyresia caryana* (Fitch).

**B. Area under quarantine:**

1. Pecan weevil: All states and districts of the United States except California and New Mexico.
2. Hickory shuckworm: The New Mexico counties of Lea, Eddy, and Dona Ana, and all other states and districts of the United States except California.
3. Black walnut curculio and butternut curculio: All states and districts of the United States except California.

**C. Commodities covered:**

1. Nuts of all species and varieties of hickory, pecan (*Carya* spp.), walnut and butternut (*Juglans* spp.), except extracted nut meats.
2. Any used appliance, used box or sack used during growing, harvesting, handling, transporting, or storing nuts and hulls.

**D. Restrictions:**

1. A commodity listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona if the commodity has been cleaned of husks, hulls, debris, and sticktights and each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (E).
2. A commodity listed in subsection (C)(2) shall be admitted into Arizona if the commodity has been fumigated as prescribed in subsections (E)(3) and (E)(4).

**E. Treatment:**

1. Cold treatment: The commodities shall be held in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours). The treatment shall not start until the entire content of the lot of nuts has reached 0° F.
2. A hot-water bath treatment at 140° F for a minimum of five continuous minutes. Water temperature shall be maintained at or above 140° F during the entire treatment period.
3. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 continuous minutes, as follows:
  - a. 2 lbs. per 1,000 cu. ft. for four hours at least 70° F, or
  - b. 3 lbs. per 1,000 cu. ft. for four hours at 60-69° F.
4. Appliances.
  - a. Steam-cleaned, inspected, and certified free from debris by the origin state,
  - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).

**Historical Note**

Former Rule, Quarantine Regulation 15. Amended effective July 13, 1989 (Supp. 89-3). Section R3-1-63 renumbered to R3-4-231 (Supp. 91-4). Amended by final



rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4).

#### **R3-4-232. Repealed**

##### **Historical Note**

Former Rule, Quarantine Regulation 16. Repealed effective February 16, 1979 (Supp. 79-1). Section R3-1-64 renumbered to R3-4-232 (Supp. 91-4).

#### **R3-4-233. Lettuce Mosaic Virus**

**A. Definitions.** In addition to the definitions provided in R3-4-101, the following terms apply to this Section:

1. “Breeder seed” means unindexed lettuce seed that a lettuce breeder or researcher controls, and that is not available for commercial sale or propagation.
2. “Breeder trial” means breeder seed grown to develop a new variety of lettuce.
3. “Mosaic-indexed” means that a laboratory tested at least 30,000 lettuce seeds from a seed lot and found that all sampled seeds were determined to be free from lettuce mosaic virus.
4. “Pest” means lettuce mosaic virus.
5. “Unindexed lettuce seed” means lettuce seed that is not mosaic-indexed.

**B. Area Under Quarantine:** All states, districts, and territories of the United States.

**C. Regulated Commodities:** Plants and plant parts, including seeds, of all varieties of lettuce, *Lactuca sativa*.

**D. Restrictions.**

1. A person shall not import into, transport within, plant, or sell in Arizona unindexed lettuce seed unless the unindexed lettuce seed is exempted under subsection (E) or the person obtains a permit as prescribed in subsection (G).
2. Each container or subcontainer of mosaic-indexed seed shall bear a label with the statement “Zero infected seeds per 30,000 tested (0 in 30,000)” as well as the name of the certified or accredited laboratory that tested the seed under subsection (D)(5).
3. A person shall not import into, transport within, plant, or sell in Arizona lettuce transplants unless the transplants are exempted under subsection (E), or unless an original certificate, issued by the origin state, accompanies the shipment. The certificate shall declare:
  - a. The name of the exporter,
  - b. The variety name and lot number of the seed from which the transplants were grown, and
  - c. Verification that the seeds from which the transplants were grown were mosaic-indexed.
4. A grower shall disk or otherwise destroy all lettuce fields within 10 days after the last day of commercial harvest or abandonment, unless prevented by documented weather conditions or circumstances beyond the control of the grower.
5. Laboratories that index lettuce seed that is shipped to Arizona shall be certified by the agricultural department of the laboratory’s state of origin or by the Arizona Department of Agriculture, in accordance with A.R.S. § 3-145, or shall be accredited by the National Seed Health System. Laboratories shall provide a copy of their certificate or accreditation letter to the Arizona Department of Agriculture by January 1 of the year that shipping will take place.

**E. Exemptions.** The requirements of subsection (D) do not apply to:

1. Lettuce seed sold in retail packages of 1 oz. or less to the homeowner for noncommercial planting,

2. Shipments of lettuce transplants consisting of five flats or less per receiver for noncommercial planting,
3. Breeder trials for a plot of 1/20 of an acre or less, or
4. Breeder trials for a plot of greater than 1/20 of an acre but no more than 1.25 acres provided the breeder or researcher:

- a. Places a flag, marked with a trial identification number, at each corner of a breeder trial plot;
- b. Provides the following written information to the Department within 10 business days of planting breeder seed:
  - i. GPS coordinates for each breeder trial plot using NAD 83 decimal degrees;
  - ii. A detailed map showing the location of each breeder trial plot;
  - iii. An identification number for each breeder trial plot; and
  - iv. The name, address, telephone number, and e-mail address for the breeder or researcher;
- c. Monitors the lettuce for pest symptoms, and notifies the Department, by telephone, by the end of the first business day following the detection of pest symptoms;
- d. Removes and destroys all plants exhibiting pest symptoms from the breeder trial plot and places them in a sealed container for disposal in a landfill;
- e. Labels bills of lading or invoices accompanying breeder seed into Arizona with the statement “LETTUCE SEED FOR BREEDER TRIALS ONLY”; and
- f. Destroys lettuce plants remaining in a breeder trial plot within 10 days after the completion of breeding trials unless prevented by documented weather conditions or circumstances beyond the control of the researcher or breeder.

**F. A breeder or researcher may conduct multiple breeder trials in Arizona under the provisions of subsection (E)(3) and (4).**

**G. Permits.**

1. A person may apply for a permit to import unindexed lettuce seed for temporary storage in Arizona if the person:
  - a. Maintains the identity of the seed while in Arizona;
  - b. Does not sell or distribute the seed for use in the state;
  - c. Does not transfer the seed to any other facility in the state; and
  - d. Reships the seed from the state within seven days or the period of time specified on the permit, whichever is longer.
2. A person may apply for a permit to transport unindexed lettuce seed into Arizona to be mosaic-indexed.

**H. Disposition of Violation.**

1. Any infected shipment of lettuce seed or transplants arriving in or found within the state, in violation of this Section, shall be immediately destroyed. The owner or the owner’s agent shall bear the cost of the destruction.
2. Any shipment of unindexed lettuce seed or transplants arriving in or found within the state in violation of this Section shall be immediately sent out-of-state or destroyed at the option of the owner or the owner’s agent. The owner or the owner’s agent shall bear the cost of the destruction or of sending the lettuce seed or transplants out-of-state.
3. Any Arizona lettuce fields in violation of this Section shall be abated as established in A.R.S. §§ 3-204 and 3-205. The owner or person in charge may be assessed a civil penalty established in A.R.S. § 3-215.01.

4. Violation of any provision of a permit issued under subsection (G) may result in suspension or revocation of the permit.

#### Historical Note

Former Rule, Quarantine Regulation 17. Amended effective July 1, 1975 (Supp. 75-1). Section R3-1-65 renumbered to R3-4-233 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4). Amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 14 A.A.R. 4091, effective December 6, 2008 (Supp. 08-4).

#### R3-4-234. Nematode Pests

##### A. Definition.

“Pest” means the reniform nematode, *Rotylenchulus reniformis*, and the burrowing nematode, *Radopholus similis* (Cobb).

##### B. Areas under quarantine.

###### 1. Reniform nematode.

- a. The entire states of Florida and Hawaii.
- b. The Commonwealth of Puerto Rico.
- c. In the state of Alabama, the counties of, Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Saint Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, and Winston.
- d. In the state of Arkansas, the counties of Ashley, Jefferson, Lonoke, and Monroe.
- e. In the state of Georgia, the counties of, Baker, Banks, Barrow, Bartow, Ben Hill, Berrien, Bleckley, Brooks, Bulloch, Burke, Calhoun, Candler, Catoosa, Charlton, Clarke, Clay, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Elbert, Emanuel, Franklin, Gordon, Grady, Hall, Hart, Houston, Jeff Davis, Jefferson, Jenkins, Johnson, Laurens, Lee, Macon, Marion, Miller, Mitchell, Montgomery, Morgan, Newton, Oconee, Peach, Pierce, Pulaski, Randolph, Richmond, Schley, Screven, Seminole, Stewart, Sumter, Tattnall, Taylor, Terrell, Thomas, Tift, Tombs, Turner, Twiggs, Walker, Walton, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, and Worth.
- f. In the state of Louisiana, the parishes of, Acadia, Ascension, Assumption, Avoyelles, Beauregard, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Concordia, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Bernard, Saint Charles, Saint Helena, Saint John the Baptist, Saint Landry, Saint Tammany, Tangipahoa, Tensas, Terrebonne, West Baton Rouge, West Carroll, and Winn.
- g. In the state of Mississippi, the counties of, Adams, Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Coahoma, Copiah, Covington, DeSoto, Forrest, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena,

Itawamba, Jackson, Jones, Lafayette, Lee, Leflore, Lowndes, Madison, Marion, Marshall, Monroe, Noxubee, Oktibbeha, Panola, Perry, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Sunflower, Tallahatchie, Tippah, Tunica, Union, Warren, Washington, Yalobusha, and Yazoo.

- h. In the state of North Carolina, the counties of, Cumberland, Harnett, Hoke, Johnston, Richmond, Robeson, Sampson, and Scotland.
  - i. In the state of South Carolina, the counties of, Calhoun, Clarendon, Darlington, Dillon, Florence, Kershaw, Lee, Marlboro, Orangeburg, Sumter, and Williamsburg.
  - j. In the state of Texas, the counties of, Brazos, Burleson, Cameron, Fort Bend, Hidalgo, Lynn, Robertson, Starr, Terry, Wharton, and Willacy.
2. Burrowing nematode.
    - a. The entire states of Florida and Hawaii.
    - b. In the state of Texas, the counties of, Cameron and Hildago.
    - c. The Commonwealth of Puerto Rico.

##### C. Regulated Commodities.

1. Soil;
  2. All plants with roots, including bulbs, corms, tubers, rhizomes, and stolons; and
  3. All plant cuttings for propagation.
- ##### D. Exceptions to regulated commodities.
1. Industrial sand and clay;
  2. Orchids and plants produced epiphytically, if growing exclusively in or on soil-free material such as osmunda fiber, tree fern trunk, or bark;
  3. Aquatic plants, including species normally growing in, on, or under water;
  4. Dormant bulbs, corms, tubers, rhizomes, and stolons for propagation, if free from roots and soil; and
  5. All fleshy roots, corms, tubers, and rhizomes for edible or medicinal purposes, if free of soil.

##### E. Quarantine Restrictions.

1. The Associate Director shall deny entry of a regulated commodity from an area under quarantine, whether moved directly from the area or by diversion or reconsignment, unless the regulated commodity is accompanied by an original certificate from the state of origin. The certificate shall state that the regulated commodity contained in the shipment is pest-free by one of the following methods:
  - a. The origin state determined through an annual survey conducted within the 12-month period immediately before shipment, that the pests do not exist on the property or in the facility used to grow the regulated commodity.
  - b. The regulated commodity in the shipment was sampled two weeks before shipment, and found pest-free.
  - c. The regulated commodity was protected from infestation of the pests by implementing all of the following steps:
    - i. Propagated from clean seed or from cuttings taken 12 inches or higher above ground level,
    - ii. Planted in sterilized soil or other material prepared or treated to ensure freedom from the pests,
    - iii. Retained in a sterilized container or bed,
    - iv. Placed on a sterilized bench or sterilized support 18 inches or higher from the ground or floor level, and

- v. Found pest-free using a sampling method approved by the Associate Director.
- 2. All regulated commodities entering Arizona shall be unloaded at destination into a quarantine holding area and held undisturbed for at least five calendar days until the Department confirms the regulated commodities are pest-free.
- 3. An Arizona receiver of a regulated commodity shall establish a quarantine holding area approved by the Department that satisfies the following conditions:
  - a. The floor of the holding area shall be composed of a permeable surface, such as sand or soil, and shall be free from debris, grass, and weeds;
  - b. An outdoor quarantine holding area shall be at least 15 ft. from all masonry walls, property boundaries, and non-quarantined plants;
  - c. The quarantine holding area shall be isolated from public access, and surrounded by a fence or other barrier; and
  - d. The integrity and security of the holding area shall be maintained at all times.
- 4. A cutting or bareroot regulated commodity may be placed in a container during the quarantine holding period. If the Associate Director determines that the regulated commodity is infested with a pest, the regulated commodity, container, and soil shall be transported out-of-state or destroyed by a method approved by the Associate Director.
- 5. Pesticides and other chemicals shall not be applied to a regulated commodity in a quarantine holding area except under the direction and supervision of a Department inspector.
- F. Disposition of violations.  
If laboratory testing indicates a regulated commodity is infested with a pest, the regulated commodity shall be destroyed or transported out-of-state.

**Historical Note**

Former Rule, Quarantine Regulation 18. Amended effective April 26, 1976 (Supp. 76-2). Repealed effective December 19, 1980 (Supp. 80-6). Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66 renumbered to R3-4-234 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-235. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.01 renumbered to R3-4-235 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-236. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.02 renumbered to R3-4-236 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-237. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.03 renumbered to R3-4-237 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-238. Whitefly Pests****A. Definition.**

“Pest” means:

1. Citrus whitefly, *Dialeurodes citri* (Ashm.);
2. Cloudy-winged whitefly, *Dialeurodes citrifolii* (Morgan);
3. Woolly whitefly, *Aleurothrixus floccosus* (Maskell).

**B. Area under quarantine.** Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia.**C. Commodities covered.** Plants and all plant parts, except fruit and seed, of the following genera and species:

*Ailanthus*,  
*Amplopsis*,  
*Bignonia capreolata*,  
*Choisya ternata*,  
*Citrus*,  
*Diospyros*,  
*Eremocitrus*,  
*Feijoa*,  
*Ficus macrophyll*,  
*Fortunella*,  
*Gardenia*,  
*Ilex*,  
*Jasminum*,  
*Lagerstroemia*,  
*Ligustrum*,  
*Maclura pomifera*,  
*Melia*,  
*Microcitrus*,  
*Musa*,  
*Osmanthus*,  
*Plumaria*,  
*Poncirus*,  
*Prunus caroliniana*,  
*Psidium*,  
*Punica granatum*,  
*Pyrus communis*,  
*Sapindus mukorossi*,  
*Smilax*,  
*Syringa vulgaris*, and  
*Viburnum*

**D. Restrictions.** A person may ship a regulated commodity to Arizona from an area under quarantine if the shipment is accompanied by a certificate issued by a plant regulatory official of the origin state attesting that within five days before shipment:

1. A regulated commodity of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Microcitrus*, and *Poncirus* was treated with a chemical to kill the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A).
2. A regulated commodity not listed in subsection (D)(1):
  - a. Was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A), or
  - b. Originated from a nursery with a pest management program recognized and monitored by the origin state and to control the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A), or
  - c. The regulated commodity is completely devoid of foliage and is exempt from treatment for the pests listed in subsection (A).

**E. Disposition of regulated commodity not in compliance.** A regulated commodity shipped into Arizona in violation of this

Section shall be destroyed, treated, or transported out-of-state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

#### Historical Note

Former Rule, Quarantine Regulation 19. Amended effective April 26, 1976 (Supp. 76-2). Amended effective August 15, 1989 (Supp. 89-3). Section R3-1-67 renumbered to R3-4-238 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4).

#### R3-4-239. Imported Fire Ants

- A. Definitions.  
“Pest” means any species of imported fire ants, including *Solenopsis invicta* and *Solenopsis richteri*.
- B. Area under quarantine. A state or portion of a state listed in 7 CFR 301.81-3, 68 FR 5794, February 5, 2003, and any area a state declares infested. This material is incorporated by reference, on file with the Department and the Office of the Secretary State, and does not include any later amendments or editions.
- C. Regulated commodities.
  1. Soil, except potting soil shipped in an original container in which the potting soil is packaged after commercial preparation; and
  2. All plants associated with soil, except:
    - a. Plants that are maintained indoors year-round, and are not for sale; and
    - b. Plants shipped bare-root and free of soil.
- D. Restrictions.
  1. A shipper of a regulated commodity shall unload a regulated commodity at destination into an approved quarantine holding area as prescribed in subsection (D)(2). The Department shall inspect and quarantine the regulated commodity as follows:
    - a. Soil and plants associated with soil from an area under quarantine in subsection (B) shall be held at least three consecutive days, and
    - b. Soil and plants associated with soil from an area under quarantine for nematodes under R3-4-234(B) shall be held at least five consecutive days.
  2. An Arizona receiver of a regulated commodity shall establish a Department-approved quarantine holding area that meets the following specifications:
    - a. The floor is of a permeable surface, such as sand or soil, and free from debris, grass, or weeds;
    - b. The area is isolated from public access, surrounded by a fence or other barrier;
    - c. The integrity and security of the area is maintained at all times; and
    - d. If outdoors, the area is at least 15 feet from any masonry wall, property boundary, or non-quarantine plant.
  3. A receiver shall apply a pesticide or other chemical to a regulated commodity located in a quarantine holding area only when directed and supervised by a Department inspector.
- E. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

#### Historical Note

Former Rule, Quarantine Regulation 20. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Correction amendment effective April 26, 1976 included deletion of Arkansas (see subsection (C)) (Supp. 77-1). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-68 renumbered to R3-4-239 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 9 A.A.R. 2095, effective August 2, 2003 (Supp. 03-2).

#### R3-4-240. Apple Maggot and Plum Curculio

- A. Definitions. The following term applies to this Section:  
“Pest” means:
  1. Apple maggot, *Rhagoletis pomonella* (Walsh); or
  2. Plum curculio, *Conotrachelus nenuphar*.
- B. Area under quarantine. All states, territories, and districts of the United States.
- C. Regulated commodities. The fresh fruit of the following plants:  
*Chaenomeles* spp. (Quince),  
*Crataegus* spp. (Hawthorne),  
*Malus* spp. (Apple),  
*Prunus* spp. (Apricot, Cherry, Nectarine, Peach, Plum, and Prune), and  
*Pyrus communis* spp. (Pear).
- D. Restrictions.
  1. A person shall not ship into Arizona a regulated commodity that is produced in or shipped from an area under quarantine unless each lot or shipment is accompanied by a certificate issued by an official of the state of origin, attesting that the regulated commodity was:
    - a. Held in an approved controlled atmosphere storage facility for a minimum of 90 continuous days at a maximum temperature of 38° F, or
    - b. Held in an approved cold storage facility for a minimum of 40 continuous days at a maximum temperature of 32° F.
  2. The Director may issue a permit to allow a regulated commodity from an area under quarantine to enter Arizona without treatment as prescribed in subsection (D)(1) if the commodity originates from an area:
    - a. That is certified to be pest-free, or
    - b. That is infested, but where an on-going pest eradication program exists that is acceptable to the Director of the Arizona Department of Agriculture.
- E. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

#### Historical Note

Former Rule, Quarantine Regulation 21. Amended effective December 5, 1974 (Supp. 75-1). Amended effective June 16, 1977 (Supp. 77-3). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-69 renumbered to R3-4-240 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1).

#### R3-4-241. Lethal Yellowing of Palms

- A. Definitions. The following term applies to this Section:  
“Pest” means:
  1. A pathogen, a non-cultivable mollicute, causing lethal yellowing of palms; or
  2. *Myndus crudus*, a planthopper that vectors the pathogen.
- B. Area under quarantine.
  1. In the state of Florida, the following counties: Broward, Collier, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach.

2. In the state of Texas, the following counties: Cameron, Hidalgo, and Willacy.
- C. Regulated commodities. All propagative parts of the following plants, except seed:
- Aiphanes lindeniana*,
  - Allagoptera arendria*,
  - Andropogon virginicus* (Broomsedge),
  - Arenga engleri*,
  - Borassus flabellifer* (Palmyra Palm),
  - Caryota mitis* (Cluster Fishtail Palm),
  - Caryota rumphiana* (Giant Fishtail Palm),
  - Chelyocarpus chuco*,
  - Chrysalidocarpus cabadae*, syn. *Dypsis cabadae* (Cabada Palm),
  - Cocos nucifera* (Coconut Palm),
  - Corypha elata* (Buri Palm),
  - Cynodon dactylon* (Bermuda Grass),
  - Cyperus* spp. (Sedges),
  - Dictyosperma album* (Princess Palm),
  - Eremochloa ophiuroides* (Centipede Grass),
  - Gaussia attenuata* (Puerto Rican Palm),
  - Howea belmoreana* (Belmore Sentry Palm),
  - Latania* spp. (Latan Palm),
  - Livistona chinensis* (Chinese Fan Palm),
  - Livistona rotundifolia* (Javanese Fan Palm),
  - Mascarena verschaffeltii* (Spindle Palm),
  - Nannorrhops ritchiana* (Mazari Palm),
  - Neodypsis decaryi*, syn. *Dypsis decaryi* (Triangle Palm),
  - Pandanus utilis* (Screw Pine),
  - Panicum purpurascens* (Para Grass),
  - Panicum bartowense*,
  - Paspalum notatum* (Bahia Grass),
  - Phoenix canariensis* (Canary Island Date Palm),
  - Phoenix dactylifera* (Date Palm),
  - Phoenix reclinata* (Sengal Date Palm),
  - Phoenix rupicola* (Cliff Date Palm),
  - Phoenix sylvestris* (Wild Date Palm),
  - Phoenix zeylanica* (Ceylon Date Palm),
  - Polyandrococos caudescens*,
  - Pritchardia* spp.,
  - Ravenea hildebrandtii*,
  - Stenotaphrum secundatum* (St. Augustine Grass),
  - Syagrus schizophylla*
  - Trachycarpus fortunei* (Windmill Palm),
  - Veitchia* spp., and
  - Zoysia* spp. (Zoysia Grass).
- D. Restrictions. A person shall not ship into Arizona a regulated commodity that is produced in or shipped from an area under quarantine.
- E. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

**Historical Note**

Former Rule, Quarantine Regulation 22. Repealed effective April 25, 1977 (Supp. 77-2). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-70 renumbered to R3-4-241 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1).

**R3-4-242. Brown Citrus Aphid**

- A. Area Under Quarantine: Hawaii and any county in Florida that, by notification from the Florida Department of Agriculture and Consumer Services, is infested with the brown citrus aphid.

- B. Commodities covered: All plants, except seed and fruit.
- C. Restrictions.
1. The species, subspecies, varieties, ornamental forms, and any hybrid having at least one ancestor of the following genera are prohibited from entering the state:
    - a. *Citrus*,
    - b. *Fortunella*, and
    - c. *Poncirus*,
  2. All other covered commodities, whether moved directly from the area under quarantine or by diversion or reconsignment from any other point, are prohibited from entering Arizona unless the following requirements are met:
    - a. Aquatic plants are accompanied by an original certificate affirming that the commodity was inspected and found free of the pest within five days before shipment.
    - b. Terrestrial plants are accompanied by an original certificate affirming that the commodity was treated, as prescribed in subsection (E), within five days before shipment.
    - c. The certificate shall indicate:
      - i. The common chemical name of the product's active ingredient,
      - ii. The rate at which the product was applied, and
      - iii. The treatment date.
- D. The Director may issue a permit admitting a covered commodity subject to specific limitations, conditions, and provisions that eliminate the risk of the pest.
- E. Treatment.
1. An application of a pesticide labeled for the treatment of aphids applied according to label instructions, or
  2. Any other treatment approved by the Director.

**Historical Note**

Former Rule, Quarantine Regulation 23. Amended effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-5). Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-71 renumbered to R3-4-242 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-243. Repealed****Historical Note**

Former Rule, Quarantine Regulation 24. Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-72 renumbered to R3-4-243 (Supp. 91-4).

**R3-4-244. Regulated and Restricted Noxious Weeds**

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, the following terms apply to this Section:
1. "Habitat" means any terrestrial or aquatic area within Arizona that is capable of sustaining plant growth.
  2. "Infested area" means each individual container in which a pest is found or the specific area that harbors a pest.
  3. "Regulated pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), found within the state may be controlled to prevent further infestation or contamination:
    - Cenchrus echinatus* L. -- Southern sandbur,
    - Cenchrus incertus* M.A. Curtis -- Field sandbur,
    - Convolvulus arvensis* L. -- Field bindweed,
    - Eichhornia crassipes* (Mart.) Solms -- Floating water hyacinth,
    - Medicago polymorpha* L. -- Burclover,
    - Pennisetum ciliare* (L.) Link -- Buffelgrass,

*Portulaca oleracea* L. -- Common purslane,  
*Tribulus terrestris* L. -- Puncturevine.

4. "Restricted pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), found within the state shall be quarantined to prevent further infestation or contamination:

*Acroptilon repens* (L.) DC. -- Russian knapweed,  
*Aegilops cylindrica* Host. -- Jointed goatgrass,  
*Alhagi pseudalhagi* (Bieb.) Desv. -- Camelthorn,  
*Cardaria draba* (L.) Desv. -- Globed-podded hoary cress (Whitetop),  
*Centaurea diffusa* L. -- Diffuse knapweed,  
*Centaurea maculosa* L. -- Spotted knapweed,  
*Centaurea solstitialis* L. -- Yellow starthistle (St. Barnaby's thistle),  
*Cuscuta* spp. -- Dodder,  
*Eichhornia crassipes* (Mart.) Solms -- Floating water hyacinth,  
*Elytrigia repens* (L.) Nevski -- Quackgrass,  
*Euryops sunbarnosus* subsp. *vulgaris* -- Sweet resinbush,  
*Halogeton glomeratus* (M. Bieb.) C.A. Mey -- Halogeton,  
*Helianthus ciliaris* DC. -- Texas blueweed,  
*Ipomoea triloba* L. -- Three-lobed morning glory,  
*Linaria genistifolia* var. *dalmatica* -- Dalmation toadflax,  
*Onopordum acanthium* L. -- Scotch thistle.

B. Area under quarantine: All infested areas within the state.

C. The following commodities are hosts or carriers of the regulated or restricted pest:

1. All plants other than those categorized as a regulated or restricted pest;
2. Forage, straw, and feed grains;
3. Live and dead flower arrangements;
4. Ornamental displays;
5. Aquariums; and
6. Any appliance, construction or dredging equipment, boat, boat trailer or related equipment, or any other vehicle with soil attached or carrying plant debris.

D. The Department may quarantine any commodity, habitat, or area infested or contaminated with a regulated pest and notify the owner or carrier of the restrictions and treatments listed in subsections (F) and (G). If the regulated pest is not quarantined, the Department shall provide the grower with technical information on effective weed control activities through integrated pest management.

E. The Department shall quarantine any commodity, habitat, or area infested or contaminated with a restricted pest and shall notify the owner or carrier of the restrictions and treatments of the pest listed in subsections (F) and (G).

F. Restrictions.

1. No regulated or restricted pest or commodity infested or contaminated with a regulated or restricted pest shall be moved to a non-infested area unless the Director issues a permit for the transporting or propagating of the pest.
2. An owner or the owner's representative shall notify the Department at least two working days in advance of moving contaminated equipment from an infested area.
3. The Department may inspect all equipment within two working days after a request to inspect the equipment is made if the equipment:
  - a. Has been moved into or through a non-infested area;
  - b. Has not been treated; or

- c. Has been used to harvest an infested crop within the past 12 months.

G. Treatments.

1. An owner or the owner's representative shall treat all soil and debris from equipment used in a quarantined area until it is free of the regulated or restricted pest before the equipment is moved. Removal or destruction of the restricted or regulated pest shall be accomplished through one of the following methods:
  - a. Autoclaving.
    - i. Dry heat. The commodity shall be heated for 15 minutes at 212° F.
    - ii. Steam heat. The commodity shall be heated for 15 minutes at 212° F;
  - b. Fumigating with ethylene oxide, chamber only: The commodity shall be fumigated with 1,500 mg/L for four hours in a chamber pre-heated to 115-125° F;
  - c. High-pressure water spray;
  - d. Crushing;
  - e. Incinerating; or
  - f. Burying in a sanitary landfill to a depth of six feet.
2. An owner or the owner's representative shall treat an infested area or habitat, including the area within the crop, rangeland, roadside, or private property, with treatments based on an integrated pest management program appropriate to the commodity. The treatments shall take place under the direction of an inspector and shall include:
  - a. Reshipment from the state;
  - b. Manual removal;
  - c. Application of a herbicide;
  - d. Biological control including insects, fungi, nematodes, or microbes; or
  - e. Any other treatment approved by the Director.

#### Historical Note

Former Rule, Quarantine Regulation 25. Repealed effective June 19, 1978 (Supp. 78-3). Section R3-1-73 renumbered to R3-4-244 (Supp. 91-4). New Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4).

#### R3-4-245. Prohibited Noxious Weeds

A. Definition. In addition to the definitions provided in A.R.S. § 3-201, the following apply to this Section:

1. "Habitat" means any terrestrial or aquatic area within Arizona that is capable of sustaining plant growth.
2. "Infested area" means each individual container in which a pest is found, the specific area that harbors the pest, or any shipment that has not been released to the receiver and is infested with a pest.
3. "Pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), that are prohibited from entering the state:

*Acroptilon repens* (L.) DC. -- Russian knapweed,  
*Aegilops cylindrica* Host. -- Jointed goatgrass,  
*Alhagi pseudalhagi* (Bieb.) Desv. -- Camelthorn,  
*Alternanthera philoxeroides* (Mart.) Griseb. -- Alligator weed,

*Cardaria pubescens* (C.A. Mey) Jarmolenko -- Hairy whitetop,  
*Cardaria chalapensis* (L.) Hand-Muzz -- Lens podded hoary cress,  
*Cardaria draba* (L.) Desv. -- Globed-podded hoary cress (Whitetop),  
*Carduus acanthoides* L. -- Plumeless thistle,  
*Cenchrus echinatus* L. -- Southern sandbur,  
*Cenchrus incertus* M.A. Curtis -- Field sandbur,  
*Centaurea calcitrapa* L. -- Purple starthistle,  
*Centaurea iberica* Trev. ex Spreng. -- Iberian starthistle,  
*Centaurea squarrosa* Willd. -- Squarrose knapweed,  
*Centaurea sulphurea* L. -- Sicilian starthistle,  
*Centaurea solstitialis* L. -- Yellow starthistle (St. Barnaby's thistle),  
*Centaurea diffusa* L. -- Diffuse knapweed,  
*Centaurea maculosa* L. -- Spotted knapweed,  
*Chondrilla juncea* L. -- Rush skeletonweed,  
*Cirsium arvense* L. Scop. -- Canada thistle,  
*Convolvulus arvensis* L. -- Field bindweed,  
*Coronopus squamatus* (Forsk.) Ascherson -- Creeping wartcress (Coronopus),  
*Cucumis melo* L. var. *Dudaim* Naudin -- Dudaim melon (Queen Anne's melon),  
*Cuscuta* spp. -- Dodder,  
*Drymaria arenarioides* H.B.K. -- Alfombrilla (Lightningweed),  
*Eichhornia azurea* (SW) Kunth. -- Anchored water hyacinth,  
*Eichhornia crassipes* (Mart.) Solms -- Floating water hyacinth,  
*Elytrigia repens* (L.) Nevski -- Quackgrass,  
*Euphorbia esula* L. -- Leafy spurge,  
*Halogeton glomeratus* (M. Bieb.) C.A. Mey -- Halogeton,  
*Helianthus ciliaris* DC. -- Texas blueweed,  
*Hydrilla verticillata* Royale -- Hydrilla (Florida-elo-dea),  
*Ipomoea* spp. -- Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory; *Ipomoea triloba*, three-lobed morning glory (which is considered a restricted pest); and *Ipomoea aborescens*, morning glory tree,  
*Ipomoea triloba* L. -- Three-lobed morning glory,  
*Isatis tinctoria* L. -- Dyers woad,  
*Linaria genistifolia* var. *dalmatica* -- Dalmation toadflax,  
*Lythrum salicaria* L. -- Purple loosestrife,  
*Medicago polymorpha* L. -- Burclover,  
*Nassella trichotoma* (Nees.) Hack. -- Serrated tussock,  
*Onopordum acanthium* L. -- Scotch thistle,  
*Orobancha ramosa* L. -- Branched broomrape,  
*Panicum repens* L. -- Torpedo grass,  
*Peganum harmala* L. -- African rue (Syrian rue),  
*Pennisetum ciliare* (L.) Link -- Buffelgrass,  
*Portulaca oleracea* L. -- Common purslane,  
*Rorippa austriaca* (Crantz.) Bess. -- Austrian field-cress,  
*Salvinia molesta* -- Giant Salvinia,  
*Senecio jacobaea* L. -- Tansy ragwort,  
*Solanum carolinense* L. -- Carolina horsenettle,  
*Sonchus arvensis* L. -- Perennial sowthistle,  
*Solanum viarum* Dunal -- Tropical Soda Apple,  
*Stipa brachychaeta* Godr. -- Puna grass,

*Striga* spp. -- Witchweed,  
*Trapa natans* L. -- Water-chestnut,  
*Tribulus terrestris* L. -- Puncturevine.

- B. Area under quarantine: All states, districts, and territories of the United States except Arizona.
- C. The following commodities are hosts or carriers of the pest:
  1. All plants and plant parts other than those categorized as a pest;
  2. Forage, straw, and feed grains;
  3. Live or dead flower arrangements;
  4. Ornamental displays;
  5. Aquariums; and
  6. Any appliance, construction or dredging equipment, boat, boat trailer or related equipment, or any other vehicle with soil attached or carrying plant debris.
- D. The Department shall quarantine any commodity, habitat, or area infested or contaminated with a pest and shall notify the owner or carrier of the methods of removing or destroying the pest from the commodity, habitat, or area. The Department shall reject any shipment not released to the receiver and reship to the shipper.
- E. Restrictions:
  1. No pest or commodity infested or contaminated with a pest shall be admitted into the state unless the Director issues a permit for the transporting or propagating of the pest.
  2. The Department shall regulate the movement of the commodity out of a quarantined area within the state until the pest is eradicated. Any shipment or lot of a commodity infested or contaminated with a pest arriving in the state in violation of this quarantine shall, according to A.R.S. § 3-205(A), be immediately reshipped from the state, or treated or destroyed using one of the following methods:
    - a. The commodity shall be fumigated with 1,500 mg/L of ethylene oxide for four hours in a chamber preheated to 115-125° F;
    - b. Incinerating;
    - c. Burying in a sanitary landfill to a depth of six feet;
    - d. Application of a herbicide; or
    - e. Any other treatment approved by the Director.

#### Historical Note

Former Rule, Quarantine Regulation 26. Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (B) effective May 2, 1986 (Supp. 86-3). Section R3-1-74 renumbered to R3-4-245 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4).

#### R3-4-246. Caribbean Fruit Fly

- A. Definitions. The following term applies to this Section: "Pest" means all life stages of the Caribbean fruit fly, *Anastrepha suspensa*.
- B. Area under quarantine.
  1. In the state of Florida, the following counties: Alachua, Brevard, Broward, Charlotte, Citrus, Collier, DeSoto, Duval, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Miami-Dade, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia.
  2. The Commonwealth of Puerto Rico.
- C. Regulated commodities.

## 1. The fresh fruit of the following plants:

*Actinidia chinensis* (Kiwi),  
*Annona glabra* (Pond Apple),  
*Annona* hybrid,  
*Annona squamosa* (Sugar Apple),  
*Atalantia citrioides*,  
*Averrhoa carambola* (Carambola),  
*Blighia sapida* (Akee),  
*Canella winteriana* (Wild Cinnamon),  
*Capsicum frutescens* (Bell Pepper),  
*Carica papaya* (Papaya),  
*Carissa grandiflora* (Natal Plum),  
*Casimiroa edulis* (White Sapote),  
*Chrysobalanus icaco* (Cocoplum),  
*Citrus aurantiifolia* (Lime),  
*Citrus aurantium* (Sour Orange),  
*Citrus limonia* (Rangpur Lime),  
*Citrus nobilis* 'unshu' x *Fortunella* sp. (Jack Orangequat),  
*Citrus paradisi* (Grapefruit),  
*Citrus paradisi* x *C. reticulata* (Tangelo),  
*Citrus reticulata* (Tangerine),  
*Citrus sinensis* (Sweet Orange),  
*Citrus sinensis* x *C. reticulata* (Temple Orange),  
*Clausena lansium* (Wampee),  
*Dimocarpus longan* (Longan),  
*Diospyros blancoi* (Velvet Apple or Velvet Persimmon),  
*Diospyros khaki* (Japanese Persimmon),  
*Dovyalis caffra* (Kei Apple),  
*Dovyalis hebecarpa* (Ceylon Gooseberry),  
*Drypetes lateriflora* (Guiana Plum),  
*Eriobotrya japonica* (Loquat),  
*Eugenia aggregata* (Cherry of the Rio Grande),  
*Eugenia brasiliensis* (Grumichama),  
*Eugenia coronata*,  
*Eugenia ligustrina*,  
*Eugenia luschnathiana* (Pitomba),  
*Eugenia uniflora* (Surinam Cherry),  
*Ficus altissima*,  
*Ficus carica* (Fig),  
*Flacourtia indica* (Governor's Plum),  
*Fortunella* spp. (Kumquat),  
*Garcinia livingstonei* (Imbe),  
*Garcinia xanthochymus*,  
*Litchi chinensis* (Lychee),  
*Lycopersicon esculentum* (Tomato),  
*Malpighia glabra* (Barbados Cherry),  
*Malus sylvestris* (Apple),  
*Mangifera indica* (Mango),  
*Manilkara jaimiqui* spp. *Emarginata* (Wild Dilly),  
*Manilkara roxburghiana*,  
*Manilkara zapota* (Sapodilla),  
*Momordica charantia* (Wild Balsam Apple),  
*Muntingia calabura* (Calbur),  
*Murraya paniculata* (Orange Jasmine),  
*Myciaria cauliflora* (Jaboticaba),  
*Myrcianthes fragrans*,  
*Myricaria glomerata*,  
*Persea americana* (Avocado),  
*Pimenta dioica* (Allspice),  
*Pouteria campechiana* (Egg Fruit),  
*Prunus persica* (Nectarine),  
*Prunus persica* (Peach),  
*Pseudanamonis umbellulifera*,  
*Psidium* spp. (Guava),  
*Punica granatum* (Pomegranate),  
*Pyrus communis* (Pear),

*Pyrus pyrifolia* (Japanese Pear),  
*Pyrus pyrifolia* x *Pyrus communis* (Kieffer Pear),  
*Rheedia aristata*,  
*Rubus hybrid* (Blackberry),  
*Severinia buxifolia* (Box Orange),  
*Spondias cytherea* (Otaheite Apple),  
*Synsepalum dulcificum* (Miracle Fruit),  
*Syzygium cumini* (Jambolan Plum),  
*Syzygium jambos* (Rose Apple),  
*Syzygium samarangense* (Java Apple),  
*Terminalia catappa* (Tropical Almond),  
*Terminalia muelleri*,  
*Trevisia palmata*,  
*Triphasia trifolia* (Limeberry),  
*X Citrofortunella floridana* (Limequat), and  
*X Citrofortunella mitis* (Calamondin).

## 2. Soil or planting media within the drip area of plants producing, or that have produced, a regulated commodity.

## D. Restrictions. A regulated commodity produced in or shipped from an area under quarantine is prohibited entry into Arizona unless each lot or shipment is accompanied by a certificate issued by an official of the state of origin, affirming compliance with one of the following:

1. Citrus fruit (*Citrus* spp. and *Fortunella* spp.) has been fumigated with methyl bromide ("Q" label only) for a minimum of two hours under the following conditions:

Pulp Temperature	Rate per 1000 cu. ft.
No less than 60° F to 79° F	3 pounds
80° F or above	2 1/2 pounds

2. Non-citrus fruit has been treated in compliance with a treatment plan approved by the Director.

## E. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

**Historical Note**

Adopted effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-1). Amended effective May 10, 1988 (Supp. 88-2). Section R3-1-75 renumbered to R3-4-246 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 2098, effective August 2, 2003 (Supp. 03-2).

**R3-4-247. Repealed****Historical Note**

Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). Section R3-1-76 renumbered to R3-4-247 (Supp. 91-4).

**R3-4-248. Japanese beetle**

## A. Definitions.

1. "Host commodities" means the commodities listed in the JBHP, Appendix 5.
2. "JBHP" means the U.S. Domestic Japanese Beetle Harmonization Plan, adopted by the National Plant Board on August 19, 1998, and revised September 5, 2000.
3. "Pest" means the Japanese beetle, *Popillia japonica* (Newman).

## B. Area under quarantine: All areas listed in the JBHP, which is incorporated by reference, does not include any later amendments or editions, and is on file with the Department, the Office of the Secretary of State, and the National Plant Board



at [www.aphis.usda.gov/npb](http://www.aphis.usda.gov/npb). The incorporated material includes the following changes:

1. Appendix 1, delete the words “(except sod).”
  2. Appendix 5, definition of host commodities, delete the words “grass sod.”
- C. Host commodities covered. All commodities, except grass sod, listed in the JBHP.
- D. An out-of-state grower who imports a host commodity into Arizona shall comply with the JBHP, except as provided under subsection (E).
- E. Restrictions on importation.
1. An out-of-state grower shall not import into Arizona a host commodity under subsection (C) from an area under quarantine unless the commodity is accompanied by an original certificate issued by an official of the origin state ensuring compliance with the requirements of the JBHP, Appendix 1.
  2. The Associate Director may admit grass sod from an out-of-state grower for shipment to Arizona if:
    - a. The out-of-state grower requests an exception agreement from the Department;
    - b. The out-of-state grower, the state plant regulatory official of the origin state, and the Associate Director sign an agreement that includes the following terms:
      - i. The out-of-state grower shall ship sod grown only in a Japanese beetle-free county;
      - ii. The origin state’s plant regulatory official shall place and monitor Japanese beetle traps on the grass sod farm during the agreement period. At least one trap shall be placed on each 10 acres of land. A buffer zone of a one-mile radius shall be established around the grass sod farm, and two traps per square mile shall be placed in the buffer zone. The Department shall revoke the agreement if the origin state documents that one or more Japanese beetles are detected in any trap;
      - iii. The origin state’s plant regulatory official or designee shall inspect sod before shipment to ensure it is free of the pest; and
      - iv. The out-of-state grower shall ship sod to Arizona only through the ports of entry on I-10 or I-40.
    - c. Both the out-of-state grower and the origin state’s plant regulatory official shall perform any other requirement established by the Associate Director to ensure the grass sod is free from all life stages of Japanese beetle.
  3. Exemptions from importation ban:
    - a. Privately-owned houseplants grown indoors; and
    - b. Commodities that are treated by the grower for Japanese beetle may be imported into Arizona if the Associate Director approves the treatment method before shipment.

#### Historical Note

Adopted effective June 16, 1977 (Supp. 77-3). Section R3-1-77 renumbered to R3-4-248 (Supp. 91-4). Amended by final rulemaking at 7 A.A.R. 5345, effective November 8, 2001 (Supp. 01-4).

### ARTICLE 3. NURSERY CERTIFICATION PROGRAM

#### R3-4-301. Nursery Certification

- A. Definitions. The following terms apply to this Section.

“Associate Director” means the Associate Director of the Arizona Department of Agriculture’s Plant Services Division.

“Certificate” means a document issued by the Director, Associate Director or by a Department inspector stating that the nursery stock has been inspected and complies with the criteria set forth by an agricultural agency of any state, county, or commonwealth.

“Certificate holder” means a person who holds a certificate issued in accordance with this Section.

“Collected nursery stock” means nursery stock that has been dug or gathered from any site other than a nursery location.

“Commercially clean” means nursery stock offered for sale is in a healthy condition and, though common pests may be present, they exist at levels that pose little or no risk.

“Common pest” means a pest, weed, or disease that is not under a state or federal quarantine or eradication program and is of general distribution within the state.

“Director” means the Director of the Arizona Department of Agriculture.

“General nursery stock inspection certification” means an inspection carried out at the request of a person for the purpose of meeting the general nursery inspection requirements of another state.

“Nursery location” means real property with one physical address, upon which nursery stock is propagated, grown, sold, distributed, or offered for sale.

“Quarantine pest” means an economically important pest that does not occur in the state or that occurs in the state but is not widely distributed or is being officially eradicated.

“Single shipment nursery stock inspection certification” means a visit to a single location by a Department inspector to certify one or more shipments of nursery stock for compliance with the quarantine requirements of the receiving state, county, or commonwealth.

- B. General nursery stock inspection certification. A person may apply for general nursery stock inspection certification by submitting to the Department the application described in subsection (E) for each nursery location. The applicant shall submit a \$50 inspection fee to the Department at the time of inspection for each nursery location. Each nursery location shall be inspected and certified separately. An application for initial certification may be submitted at any time. A certificate will be valid for one year, and may be renewed. A renewal application shall be submitted each year by February 15.
1. The Department shall issue a general nursery stock inspection certificate to the applicant if, following a Department inspection, the nursery stock is found free of quarantine pests, and commercially clean of common pests that are adversely affecting the nursery stock.
    - a. The Department shall only certify nursery stock that is found free of quarantine pests. The applicant shall not remove from the nursery any nursery stock that is found infested with a quarantine pest until a Department inspector determines that the pest has been eliminated.
    - b. The Department shall restrict the movement of any nursery stock found infested with a common pest that a Department inspector determines is adversely affecting the nursery stock. The applicant shall

establish a treatment program to control the pest and shall not remove the infested nursery stock from the nursery until a Department inspector determines that the pest has been controlled.

2. A certificate holder shall ensure that a nursery with a general nursery stock inspection certificate remains free of quarantine pests and commercially clean of common pests that are adversely affecting the nursery stock throughout the period that the certificate is valid.
  3. A certificate holder shall not distribute, transport, or sell nursery stock interstate if it is infested with a quarantine pest or a common pest that is adversely affecting the nursery stock.
  4. A certificate holder may reproduce a general nursery stock inspection certificate without the Department's permission for nursery use.
  5. A certificate holder shall ensure that the nursery's general nursery stock inspection certificate accompanies each shipment of nursery stock that is moved out of the state.
  6. A certificate holder shall maintain all invoices or other shipping documents for shipments received by and shipped from the nursery for up to one year. The certificate holder shall make the documents available to the Department upon request, as authorized by A.R.S. § 3-201.01(A)(6).
  7. The Department shall inspect a nursery with a general nursery stock inspection certificate at any time during the certificate period to verify compliance with this Section.
  8. A general nursery stock inspection certificate expires on December 31 of each year unless renewed, suspended, or revoked as provided in this Section.
  9. A person with a general nursery stock inspection certificate may also need to obtain a special nursery stock inspection certificate to meet a specific quarantine entry requirement of another state, as prescribed in subsection (C).
- C.** Special nursery stock inspection certification. A person may apply for special nursery stock inspection certification to meet specific quarantine entry requirements of another state that are not addressed by the general nursery stock inspection certificate described in subsection (B). The applicant shall submit to the Department the application described in subsection (E) and a \$50 inspection fee for each nursery location.
1. An applicant shall ensure that the applicant's nursery stock is free of quarantine pests as required by the receiving state and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock.
  2. A certificate holder shall not reproduce or duplicate a special nursery stock inspection certificate without written permission from the Department.
  3. A special nursery stock inspection certificate is valid for one year from the issue date unless the receiving state requires a shorter certification period.
- D.** Single shipment nursery stock inspection certification. A person may apply for a single shipment nursery stock inspection certification to meet the entry requirements of another state by submitting to the Department the application described in subsection (E) with a \$50 inspection fee.
1. An applicant for a single shipment nursery stock inspection certificate shall ensure that the nursery stock in each

shipment is free from quarantine pests, as required by the receiving state, and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock until the pest has been controlled.

2. A single shipment nursery stock inspection certificate is valid for seven calendar days following the inspection date. A certificate holder may apply for a new certificate if the original certificate expires before the shipment leaves Arizona.
  3. A certificate holder shall not reproduce or duplicate a single shipment nursery stock inspection certificate.
  4. A person who has obtained a single shipment nursery stock inspection certificate for collected nursery stock shall retain a record, for at least one year from the shipment date, of the street address from which each plant in a shipment was collected. The person shall provide the collected nursery stock record to the Department upon request.
- E.** Application. A person applying for a certificate under this Section shall provide the following information on a form obtained from the Department:
1. Applicant's name, nursery name, mailing address, telephone and fax numbers, and e-mail address, as applicable;
  2. Location at which inspection is to be made, by legal description or physical address;
  3. Number of acres, structures, or vehicles to be inspected, as applicable;
  4. For shipping, the state, county, or commonwealth of planned destination, the category of inspection, and the nursery stock to be certified;
  5. Applicant's Social Security number or tax identification number; and
  6. Applicant's signature and date of signature.
- F.** Based upon the circumstances of each case, the Associate Director may:
1. Refuse to issue a certificate if, after inspection, the Associate Director determines that an applicant has not met a requirement for certification.
  2. Revoke a certificate for a violation of a condition of the certificate.
  3. Suspend, for a period of up to 90 days, a certificate for misuse or misrepresentation related to the certificate.
  4. Refuse to issue or suspend a certificate issued under this Section if the applicant or certificate holder refuses to provide the Department with documents that demonstrate the ownership, origin, or destination of nursery stock presented for certification.
- G.** Notwithstanding subsections (B) through (D), during fiscal year 2013, an applicant for nursery stock inspection certification shall pay the following fee:
1. For general certification, \$250.
  2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.

#### Historical Note

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-301 renumbered from R3-1-301 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2). Amended by exempt rulemaking at 16 A.A.R. 1336,

effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1761, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2063, effective August 2, 2012 (Supp. 12-3).

**R3-4-302. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-302 renumbered from R3-1-301 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

**R3-4-303. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-303 renumbered from R3-1-303 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

**R3-4-304. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-304 renumbered from R3-1-304 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

**R3-4-305. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-305 renumbered from R3-1-305 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

**R3-4-306. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-306 renumbered from R3-1-306 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

**R3-4-307. Repealed**

**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-307 renumbered from R3-1-307 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

**ARTICLE 4. SEEDS**

**R3-4-401. Definitions**

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

1. “Blend” means seed consisting of more than one variety of a kind, with each variety in excess of five percent by weight of the whole.
2. “Brand” means a word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person.
3. “Certifying agency” means:
  - a. An agency authorized under the laws of this state to officially certify seed and that has standards and procedures approved by the U.S. Secretary of Agriculture to assure the varietal purity and identity of the seed certified, or
  - b. An agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to the procedures and standards adhered to

generally by seed-certifying agencies under subsection (a) of this definition.

4. “Coated seed” means seed that has been covered with a substance that changes the size, shape, or weight of the original seed. Seed coated with ingredients such as rhizobia, dyes, and pesticides is not coated seed.
5. “Conditioning” or “conditioned” means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.
6. “Dormant” means viable seed, excluding hard seed, that fails to germinate when provided the specified germination conditions for that kind of seed.
7. “Federal Seed Act” means the federal law at 7 U.S.C. 1551-1611 and regulations promulgated under the Act: 20 CFR part 201.
8. “Flower seeds” means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in this state.
9. “Germination” means the emergence and development from the seed embryo of those essential structures that, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
10. “Hard seeds” means seeds that remain hard at the end of the prescribed germination test period because they have not absorbed water due to an impermeable seed coat.
11. “Inert matter” means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones.
12. “Mixture”, “mix”, or “mixed” means seed consisting of more than one kind, each in excess of five percent by weight of the whole.
13. “Mulch” means a protective covering of any suitable substance placed with seed that acts to retain sufficient moisture to support seed germination, sustain early seedling growth and aid in preventing soil moisture evaporation, control of weeds, and erosion prevention.
14. “Origin” means the state where the seed was grown, or if not grown in the United States, the country where the seed was grown.
15. “Other crop seed” means seeds of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined in this Article.
16. “Pure live seed” means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by 100. The result is expressed as a whole number.
17. “Pure seed” means a kind of seed excluding inert matter and all other seed not of the kind being considered.
18. “Replacement date sticker” means a sticker on a label that displays a new test date.
19. “Retail” means sales that are not intended for agricultural use and are prepared for use by a consumer in home gardens or household plantings only.
20. “Seed count” means the number of seeds per unit weight in a container.
21. “Seizure” means taking possession of seed pursuant to a court order.
22. “Wholesale” means sales of seeds that are intended for agricultural use normally in quantities for resale, as by an agricultural retail merchant and are not prepared for use in home gardening or household plantings.
23. “Working sample” means the number of seeds required under §§ 402 and 403 of the Federal Seed Act.

**Historical Note**

Former Rule, Arizona Seed Regulation 1. Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-110 renumbered without change as Section R3-4-401 (Supp. 89-1). Section R3-4-401 renumbered from R3-1-401 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-402. Labeling****A. General requirements:**

1. Blank spaces or the words “free or none” mean “0” and “0.00%” for the purpose of applying the tolerances prescribed in this Article.
2. Labeling for purity and germination shall not show higher results than actually found by test.
3. The terms “foundation seed,” “registered seed,” and “certified seed” are authorized for use on seed certified by a seed certifying agency under the laws of Arizona as delineated in R3-4-405.
4. Relabeling. Any person relabeling seed in its original container shall include the following information on a label or a replacement date sticker:
  - a. The calendar month and year the germination test was completed to determine the germination percentage and the sell-by date as required by subsection (C)(3)(i)(iv) or (C)(5)(c)(i),
  - b. The same lot designation as on the original labels, and
  - c. The identity of the person relabeling the seed if different from the original labeler.
5. Labeling of seed distributed to wholesalers. After seed has been conditioned, a labeler shall ensure the seed is labeled as follows:
  - a. When supplied to a retailer or consumer, each bag or bulk lot must be completely labeled.
  - b. When supplied to a wholesaler, if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk, the labeling of seed may be by invoice.
  - c. When supplied to a wholesaler, if each bag or container is not identified by a lot number, it must carry complete labeling.
6. Seeds for sprouting. All labels of seeds sold for sprouting for salad or culinary purposes shall indicate the following information:
  - a. Commonly accepted name of kind or kinds;
  - b. Lot number;
  - c. Percentage by weight of each pure seed component in excess of 5 percent of the whole, other crop seeds, inert matter, and weed seeds, if occurring;
  - d. Percentage of germination of each pure seed component;
  - e. Percentage of hard seed, if present; and
  - f. The calendar month and year the germination test was completed to determine the percentages in subsections (c), (d) and (e).

**B. Kind, variety, or type.**

1. All agricultural seeds sold in this state, except as stated in subsection (B)(2), shall be labeled to include the recognized variety name or type or the words “Variety not stated.” A brand is not a kind and variety designation and shall not be used instead of a variety name.
2. All cotton planting seed sold, offered for sale, exposed for sale, or transported for planting purposes in this state, shall have a label that includes both kind and variety.

**C. Agricultural, vegetable, or flower seeds that is sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. No misleading information shall appear on the label. The label shall include the following information:**

1. For agricultural, vegetable, and flower seeds that have been treated, the following is required and may appear on a separate label:
  - a. Language indicating that the seed has been treated;
  - b. The commonly-accepted chemical name of the applied substance or a description of the process used;
  - c. If a substance that is harmful to human or animals is present with the seed, a caution statement such as “Do not use for food, feed, or oil purposes.” The caution for highly toxic substances shall be a poison statement and symbol; and
  - d. If the seed is treated with an inoculant, the date of expiration, which is the date beyond which the inoculant is not to be considered effective.
2. For agricultural seeds, except for lawn and turf grass seed and mixtures of lawn and turf grass seed as provided in subsection (C)(3); for seed sold on a pure live seed basis as provided in subsection (C)(7); and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (C)(8):
  - a. The name of the kind and variety for each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. If the variety of the kinds generally labeled as a variety designated in this Article is not stated, the label shall show the name of the kind and the words, “variety not stated.” Hybrid seed shall be labeled as hybrid;
  - b. Lot number or other lot identification;
  - c. Origin of alfalfa, red clover, and field corn (except hybrid corn) or if the origin is unknown, a statement that the origin is unknown;
  - d. Percentage by weight of all weed seeds;
  - e. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
  - f. Percentage by weight of agricultural seeds other than those required to be named on the label. Agricultural seeds may be designated as “crop seeds;”
  - g. Percentage by weight of inert matter;
  - h. The sum total of weight identified in subsections (a), (d), (f), and (g) shall equal 100 percent;
  - i. For each named agricultural seed:
    - i. Percentage germination, excluding hard seed;
    - ii. Percentage of hard seeds, if present; and
    - iii. The calendar month and year the test was completed to determine the percentages. The statement “total germination and hard seed” may be included following the percentages required under subsections (i) and (ii).
  - j. Net weight of seed in the container or seed count per unit weight; and
  - k. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
3. For lawn and turf grass seed and lawn and turf grass seed mixtures:
  - a. For single kinds, the name of the kind or kind and variety and the percentage by weight.

- b. For mixtures, the word “mix,” “mixed,” or “mixture” or “blend” shall be stated with the name of the mixture, along with the commonly accepted name of each kind or kind and variety of each agricultural seed component in excess of five percent of the whole and the percentages by weight.
  - c. The percentage by weight of each kind of pure seed shall be listed in order of its predominance and in columnar form. The heading “pure seed” and “germination” or “germ” shall be placed consistent with generally accepted industry practices.
  - d. Percentage by weight of agricultural seed other than those required to be named on the label which shall be designated as “crop seed.”
  - e. The percentage by weight of inert matter for lawn and turf grass shall not exceed ten percent, except that 15 percent inert matter is permitted in Kentucky bluegrass labeled without a variety name. Foreign material that is not common to grass seed shall not be added, other than material used for coating, as in subsection (C)(4), or combination products, as in subsection (C)(9).
  - f. Percentage by weight of all weed seeds. Weed seed content shall not exceed one-half of one percent by weight.
  - g. The sum total for subsections (a), (b), (c), (d), (e) and (f) shall equal 100 percent.
  - h. Noxious weeds that are required by this Article to be labeled shall be listed under the heading “noxious weed seeds.”
  - i. For each lawn and turf seed named under subsection (a) or (b):
    - i. Percentage of germination, excluding hard seed;
    - ii. Percentage of hard seed, if present;
    - iii. Calendar month and year the germination test was completed to determine percentages in subsections (i) and (ii); and
    - iv. For seed sold for retail non-farm usage the statement “sell by (month/year)” which shall be no more than 15 months from the date of the germination test excluding the month of the test.
  - j. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state.
4. For coated agricultural, vegetable, flower, or lawn and turf seeds that are sold by weight:
- a. Percentage by weight of pure seeds with coating material removed;
  - b. Percentage by weight of coating material;
  - c. Percentage by weight of inert material not including coating material;
  - d. Percentage of germination determined on 400 pellets with or without seeds;
  - e. All other applicable requirements in subsections (C)(1), (2), and (3).
5. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices:
- a. Name of kind and variety of seed;
  - b. Lot identification, such as by lot number or other means;
  - c. One of the following:
    - i. The calendar month and year the germination test was completed and the statement “Sell by (month/year).” The date indicated shall be no more than 12 months from the date of the test, excluding the month of the test;
    - ii. The calendar year for which the seed was packaged for sale as “packed for (year)” and the statement “sell by (year)”;
    - iii. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test;
  - d. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state;
  - e. For seeds that germinate less than the standard established under R3-4-404(A), (B) and (C)(i): percentage of germination, excluding hard seed; percentage of hard seed, if present; and the words “Below Standard” in not less than 8-point type;
  - f. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
6. For vegetable seeds in containers other than packets prepared for use in home gardens, household plantings, pre-planted containers, mats, tapes, or other planting devices:
- a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;
  - b. Lot number or other lot identification;
  - c. For each named vegetable seed:
    - i. Percentage germination, excluding hard seed;
    - ii. Percentage of hard seed, if present; and
    - iii. The calendar month and year the test was completed to determine the percentages; The statement “Total germination and hard seed” may be included following the percentages required under subsections (C)(6)(c)(i) and (C)(6)(c)(ii);
  - d. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state; and
  - e. The labeling requirements for vegetable seeds in containers of more than one pound are met if the seed is weighed from a properly labeled container in the presence of the purchaser.
7. For agricultural seeds sold on a pure live seed basis, each container shall bear a label containing the information required by subsection (C)(2), except:
- a. The label need not show:
    - i. The percentage by weight of each agricultural seed component as required by subsection (C)(2)(a); or
    - ii. The percentage by weight of inert matter as required by subsection (C)(2)(g); and
  - b. For each named agricultural seed, the label must show instead of the information required by subsection (C)(2)(h):
    - i. The percentage of pure live seed; and
    - ii. The calendar month and year in which the test determining the percentage of live seed was completed.

8. For agricultural and vegetable hybrid seeds that contain less than 95 percent hybrid seed:
    - a. Kind or variety shall be labeled as “hybrid.”
    - b. The percentage that is hybrid shall be labeled parenthetically in direct association following the named variety; for example – comet (85% hybrid), and
    - c. Varieties in which the pure seed contains less than 75 percent hybrid seed shall not be labeled hybrids.
  9. For combination mulch, seed, and fertilizer products:
    - a. The word “combination” followed by the words “mulch – seed – fertilizer”, as appropriate, shall appear on the upper 30 percent of the principal display panel. The word “combination” shall be the largest and most conspicuous type on the container, equal to or larger than the product name. The words “mulch – seed – fertilizer”, as appropriate, shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination.”
    - b. The products shall not contain less than 70 percent mulch.
    - c. Agricultural, flower, vegetable, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:
      - i. Product name;
      - ii. Lot number;
      - iii. Percentage by weight of pure seed of each kind and variety named. The kind and variety named may be less than 5 percent of the whole;
      - iv. Percentage by weight of other crop seeds;
      - v. Percentage by weight of inert matter, which shall not be less than 70 percent;
      - vi. Percentage by weight of weed seeds;
      - vii. The total of subsections (iii), (iv), (v), and (vi) shall equal 100 percent;
      - viii. Name and number of noxious weed seeds per pound, if present;
      - ix. Hard seed percentage, if present, and percentage of germination of each kind or kind and variety named and the month and year the test was completed; and
      - x. Name and address of the labeler or the person who sells, offers or exposes the product for sale within this state.
- D. Labeling requirements: flowers.**
1. For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in pre-planted containers, mats, tapes, or other planting devices:
    - a. For all kinds of flower seeds:
      - i. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3); and
      - ii. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state, and one of the following subsections (D)(1)(a)(iii) through (v);
      - iii. The calendar month and year the germination test was completed and the statement “Sell by (month/year).” The date indicated shall be no more than 12 months from the date of the test excluding the month of the test; or
      - iv. The calendar year for which the seed was packaged for sale as “packed for (year)” and the statement “sell by (year)”; or
      - v. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test.
    - b. For kinds of flower seeds for which standard testing procedures are prescribed by the Association of Official Seed Analysts and that germinate less than the germination standards prescribed under the provisions of R3-4-404(B):
      - i. Percentage of germination, excluding hard seeds;
      - ii. Percentage hard seed, if present; and
      - iii. The words “Below Standard” in not less than eight-point type.
    - c. For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
  2. For flower seeds in containers other than packets and other than pre-planted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:
    - a. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3), and for wildflowers, the genus and species and subspecies, if appropriate;
    - b. The lot number or other lot identification;
    - c. For wildflower seed with a pure seed percentage of less than 90 percent:
      - i. The percentage, by weight, of each component listed in order of the component’s predominance;
      - ii. The percentage by weight of weed seed, if present; and
      - iii. The percentage by weight of inert matter;
    - d. For kinds of seed for which standard testing procedures are prescribed by the Association of Official Seed Analysts:
      - i. Percentage of germination, excluding hard or dormant seed;
      - ii. Percentage of hard or dormant seed, if present; and
      - iii. The calendar month and year that the test was completed to determine the percentages in subsections (D)(2)(d)(i) and (ii);
    - e. For those kinds of flower seed for which standard testing procedures are not prescribed by the Association of Official Seed Analysts, the year of production or collection; and
    - f. Name and address of the labeler, or the person who sells, offers, or exposes the flower seed for sale within this state.
  3. Requirements to label flower seeds with kind and variety, or type and performance characteristics as prescribed in subsection (D)(1)(a)(i) and (D)(2)(a) shall be met as follows:
    - a. For seeds of plants grown primarily for their blooms:
      - i. If the seeds are of a single named variety, the kind and variety shall be stated, for example, “Marigold, Butterball”;
      - ii. If the seeds are of a single type and color for which there is no specific variety name, the

- type of plant, if significant, and the type and color of bloom shall be indicated, for example, “Scabiosa, Tall, Large Flowered, Double, Pink”;
- iii. If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant, if significant, and the type or types of bloom shall be indicated. It shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is “Marigold, Dwarf Double French, Mixed Colors”;
  - iv. If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall clearly indicate that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example, “Cut Flower Mixture”, or “Rock Garden Mixture”. Statements such as “General Purpose Mixture”, “Wonder Mixture”, or any other statement that fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this subsection unless the specific use of the mixture is also stated. Containers with over three grams of seed shall list the kind or kind and variety names of each component present in excess of five percent of the whole in the order of their predominance, giving the percentage by weight of each. Components equal to or less than five percent shall be listed, but need not be listed in order of predominance. A single percentage by weight shall be given for these components that are less than five percent of the whole. If no component of a mixture exceeds five percent of the whole, the statement, “No component in excess of 5%” may be used. Containers with three grams of seed or less shall list the components without giving percentage by weight and need not be in order of predominance.
  - b. For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated, or the kind shall be stated together with a descriptive statement concerning the ornamental part of the plant, for example, “Ornamental Gourds, Small Fruited, Mixed.”
- E.** Label requirement for tree and shrub seeds. Tree or shrub seeds that is sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. Labeling of seed supplied under a contractual agreement meets this requirement if the shipment is accompanied by an invoice or by an analysis tag attached to the invoice if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk. Each bag or container not clearly identified by a lot number must carry complete labeling. The label shall include the following information:
1. For tree and shrub seeds that have been treated, the following may appear on a separate label:
    - a. Language indicating that the seed has been treated;
    - b. The commonly accepted chemical name of the applied substance or description of the process used;
    - c. If the substance is harmful to human or animals, a caution statement such as “do not use for food or feed or oil purposes”. The caution for highly toxic substances shall be a poison statement and symbol; and
    - d. If the seed has been treated with an inoculant, the date of expiration, which is the date the inoculant is no longer considered effective;
  2. For all tree and shrub seeds subject to this Article:
    - a. Common name of the species of seed and if appropriate, the subspecies;
    - b. The scientific name of the genus and species and if appropriate, the subspecies;
    - c. Lot number or other lot identification;
    - d. Origin.
      - i. For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, a geographic description, or identification of a political subdivision, such as a state or county; or
      - ii. For seed collected from other than a predominantly indigenous stand, identification of the area of collection and the origin of the stand, or the statement “origin not indigenous”;
    - e. The elevation or the upper and lower limits of elevations within which the seed was collected;
    - f. Purity as a percentage of pure seed by weight;
    - g. For those species listed under R3-4-404(C), the following apply except as provided in subsection (E)(2)(h):
      - i. Percentage germination excluding hard seed;
      - ii. Percentage of hard seed, if present;
      - iii. The calendar month and year the test was completed to determine the percentages in subsection (a) and (b);
    - h. Instead of complying with subsections (E)(2)(g)(i), (ii), and (iii), the seed may be labeled, “Test is in process, results will be supplied upon request”;
    - i. For those species for which standard germination testing procedures have not been prescribed, the calendar year in which the seed was collected; and
    - j. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
  - F.** Hermetically sealed seed shall meet the following requirements
    1. The seed shall have been packaged within nine months of harvest;
    2. The container used shall not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration (WVP) is measured in accordance with the U.S. Bureau of Standards as: gm H<sub>2</sub>O/24 hr/100 sq in/100°F/90% RHV 0% RH;
    3. The seed in the container shall not exceed the percentage of moisture, on a wet weight basis, as listed below:
      - a. Agricultural Seeds,
        - i. Beet, Field: 7.5;
        - ii. Beet, Sugar: 7.5;
        - iii. Bluegrass, Kentucky: 6.0;
        - iv. Clover, Crimson: 8.0;
        - v. Fescue, Red: 8.0;
        - vi. Ryegrass, Annual: 8.0;
        - vii. Ryegrass, Perennial: 8.0;

- viii. All Others: 6.0; and
- ix. Mixture of Above: 8.0;
- b. Vegetable Seeds,
  - i. Bean, Garden: 7.0;
  - ii. Bean, Lima: 7.0;
  - iii. Beet: 7.5;
  - iv. Broccoli: 5.0;
  - v. Brussels Sprouts: 5.0;
  - vi. Cabbage: 5.0;
  - vii. Carrot: 7.0;
  - viii. Cauliflower: 5.0;
  - ix. Celeriac: 7.0;
  - x. Celery: 7.0;
  - xi. Chard, Swiss: 7.5;
  - xii. Chinese Cabbage: 5.0;
  - xiii. Chives: 6.5;
  - xiv. Collards: 5.0;
  - xv. Corn, Sweet: 8.0;
  - xvi. Cucumber: 6.0;
  - xvii. Eggplant: 6.0;
  - xviii. Kale: 5.0;
  - xix. Kohlrabi: 5.0;
  - xx. Leek: 6.5;
  - xxi. Lettuce: 5.5;
  - xxii. Muskmelon: 6.0;
  - xxiii. Mustard, India: 5.0;
  - xxiv. Onion: 6.5;
  - xxv. Onion, Welsh: 6.5;
  - xxvi. Parsley: 6.5;
  - xxvii. Parsnip: 6.0;
  - xxviii. Pea: 7.0;
  - xxix. Pepper: 4.5;
  - xxx. Pumpkin: 6.0;
  - xxxi. Radish: 5.0;
  - xxxii. Rutabaga: 5.0;
  - xxxiii. Spinach: 8.0;
  - xxxiv. Squash: 6.0;
  - xxxv. Tomato: 5.5;
  - xxxvi. Turnip: 5.0;
  - xxxvii. Watermelon: 6.5; and
  - xxxviii. All others: 6.0.
- 4. The container shall be conspicuously labeled in not less than 8-point type to indicate:
  - a. That the container is hermetically sealed,
  - b. That the seed has been preconditioned as to moisture content, and
  - c. The calendar month and year in which the germination test was completed; and
- 5. The germination percentage of the seed at the time of packaging shall have been equal to or higher than the standards specified elsewhere in subsection R3-4-404.

#### Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-111 renumbered without change as Section R3-4-402 (Supp. 89-1). Section R3-4-402 renumbered from R3-1-402 (Supp. 91-4). Amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

#### R3-4-403. Noxious Weed Seeds

- A. A person shall not allow the following prohibited noxious weed seeds in seed regulated under this Article:
  - 1. *Acroptilon repens* (L.) DC. – Russian knapweed;
  - 2. *Aegilops cylindrica* Host. – Jointed goatgrass;
  - 3. *Alhagi maurorum* – Camelthorn;

- 4. *Alternanthera philoxeroides* (Mart.) Griseb. – Alligator weed;
- 5. *Cardaria pubescens* (C.A. Mey) Jarmolenko – Hairy whitetop;
- 6. *Cardaria chalepensis* (L.) Hand-Maz – Lens podded hoary cress;
- 7. *Cardaria draba* (L.) Desv. – Globed-podded hoary cress (Whitetop);
- 8. *Carduus acanthoides* L. – Plumeless thistle;
- 9. *Cenchrus echinatus* L. – Southern sandbur;
- 10. *Cenchrus incertus* M.A. Curtis – Field sandbur;
- 11. *Centaurea calcitrapa* L. – Purple starthistle;
- 12. *Centaurea iberica* Trev. ex Spreng. – Iberian starthistle;
- 13. *Centaurea squarrosa* Willd. – Squarrose knapweed;
- 14. *Centaurea sulphurea* L. – Sicilian starthistle;
- 15. *Centaurea solstitialis* L. – Yellow starthistle (St. Barnaby's thistle);
- 16. *Centaurea diffusa* L. – Diffuse knapweed;
- 17. *Centaurea maculosa* L. – Spotted knapweed;
- 18. *Chondrilla juncea* L. – Rush skeletonweed;
- 19. *Cirsium arvense* L. Scop. – Canada thistle;
- 20. *Convolvulus arvensis* L. – Field bindweed;
- 21. *Coronopus squamatus* (Forskal) Ascherson – Creeping wartcress (Coronopus);
- 22. *Cucumis melo* L. var. *Dudaim* Naudin – Dudaim melon (Queen Anne's melon);
- 23. *Cuscuta* spp. – Dodder;
- 24. *Cyperus rotundus* – Purple Nutgrass or Nutsedge;
- 25. *Cyperus esculentus* – Yellow Nutgrass or Nutsedge;
- 26. *Drymaria arenarioides* H.B.K. – Alfombrilla (Lightningweed);
- 27. *Eichhornia azurea* (SW) Kunth. – Anchored Waterhyacinth;
- 28. *Elymus repens* – Quackgrass;
- 29. *Euphorbia esula* L. – Leafy spurge;
- 30. *Halogeton glomeratus* (M. Bieb.) C.A. Mey – Halogeton;
- 31. *Helianthus ciliaris* DC. – Texas Blueweed;
- 32. *Hydrilla verticillata* (L.f.) Royle – Hydrilla (Florida-elo-dea);
- 33. *Ipomoea* spp. – Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory; *Ipomoea triloba*, three-lobed morning glory (which is considered a restricted pest); *Ipomoea aborescens*, morning glory tree; *Ipomoea batatas* – sweetpotato; *Ipomoea quamoclit*, Cypress Vine; *Ipomoea noctiflora*, Moonflower – Morning Glories, Cardinal Climber, Hearts and Honey Vine;
- 34. *Isatis tinctoria* L. – Dyers woad;
- 35. *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax;
- 36. *Lythrum salicaria* L. – Purple loosestrife;
- 37. *Medicago polymorpha* L. – Burclover;
- 38. *Nassella trichotoma* (Nees.) Hack. – Serrated tussock;
- 39. *Onopordum acanthium* L. – Scotch thistle;
- 40. *Orobancha ramosa* L. – Branched broomrape;
- 41. *Panicum repens* L. – Torpedo grass;
- 42. *Peganum harmala* L. – African rue (Syrian rue);
- 43. *Portulaca oleracea* L. – Common purslane;
- 44. *Rorippa austriaca* (Crantz.) Bess. – Austrian fieldcress;
- 45. *Salvinia molesta* – Giant Salvinia;
- 46. *Senecio jacobaea* L. – Tansy ragwort;
- 47. *Solanum carolinense* – Carolina horsenettle;
- 48. *Solanum elaeagnifolium* – Silverleaf Nightshade;
- 49. *Sonchus arvensis* L. – Perennial sowthistle;
- 50. *Solanum viarum* Dunal – Tropical Soda Apple;
- 51. *Sorghum* species, perennial (*Sorghum halepense*, *Johnson grass*, *Sorghum alnum*, and perennial sweet sudan-grass);



52. *Stipa brachychaeta* Godr. – Puna grass;
53. *Striga* spp. – Witchweed;
54. *Trapa natans* L. – Water-chestnut;
55. *Tribulus terrestris* L. – Puncturevine.

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

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

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-112 renumbered without change as Section R3-4-403 (Supp. 89-1). Section R3-4-403 renumbered from R3-1-403 (Supp. 91-4). Section R3-4-403 repealed, new Section R3-4-403 renumbered from R3-4-405 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-404. Germination Standards**

**A.** Vegetable seed shall have the following minimum percent germination or the minimum percent germination as found in the Federal Seed Act, 20 CFR 201.31 (as amended January 1, 2002), which is incorporated by reference, not including future editions or amendments. The material is on file with the Department and available for purchase from the U. S. Government Bookstore (<http://bookstore.gpo.gov/>) or at the U.S. Government Printing Office, 732 N. Capitol St., NW, Washington, DC 20401 or it can be found online at <http://ecfr.gpo-access.gov/cgi/t/text/text-idx?c=ecfr&sid=42bcf6d966081e2f2cf9d03315fb999f&rgn=d1v8&view=text&node=7:3.1.1.7.28.0.317.38&idno=7>.

1. Artichoke: 60;
2. Asparagus: 70;
3. Asparagusbean: 75;
4. Bean, garden: 70;
5. Bean, Lima: 70;
6. Bean, runner: 75;
7. Beet: 65;
8. Broadbean: 75;
9. Broccoli: 75;
10. Brussels sprouts: 70;
11. Burdock, great: 60;
12. Cabbage: 75;
13. Cabbage, tronchuda: 70;
14. Cardoon: 60;
15. Carrot: 55;
16. Cauliflower: 75;
17. Celeriac: 55;
18. Celery: 55;
19. Chard, Swiss: 65;

20. Chicory: 65;
21. Chinese cabbage: 75;
22. Chives: 50;
23. Citron: 65;
24. Collards: 80;
25. Corn, sweet: 75;
26. Cornsalad: 70;
27. Cowpea: 75;
28. Cress, garden: 75;
29. Cress, upland: 60;
30. Cress, water: 40;
31. Cucumber: 80;
32. Dandelion: 60;
33. Dill: 60;
34. Eggplant: 60;
35. Endive: 70;
36. Kale: 75;
37. Kale, Chinese: 75;
38. Kale, Siberian: 75;
39. Kohlrabi: 75;
40. Leek: 60;
41. Lettuce: 80;
42. Melon: 75;
43. Mustard, India: 75;
44. Mustard, spinach: 75;
45. Okra: 50;
46. Onion: 70;
47. Onion, Welsh: 70;
48. Pak-choi: 75;
49. Parsley: 60;
50. Parsnip: 60;
51. Pea: 80;
52. Pepper: 55;
53. Pumpkin: 75;
54. Radish: 75;
55. Rhubarb: 60;
56. Rutabaga: 75;
57. Sage: 60;
58. Salsify: 75;
59. Savory, summer: 55;
60. Sorrel: 65;
61. Soybean: 75;
62. Spinach: 60;
63. Spinach, New Zealand: 40;
64. Squash: 75;
65. Tomato: 75;
66. Tomato, husk: 50;
67. Turnip: 80;
68. Watermelon: 70; and
69. All Others: The germination standard for all other vegetable and herb seed for which a standard has not been established shall be 50 percent.

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

1. Archillea (The Pearl) – *Achillea ptarmica*: 50;
2. African Daisy – *Dimorphotheca aurantiaca*: 55;
3. African Violet – *Saintpaulia* spp: 30;
4. Ageratum – *Ageratum mexicanum*: 60;
5. Agrostemma (rose campion) – *Agrostemma coronaria*: 65;

6. Alyssum – *Alyssum compactum*, *A. maritimum*, *A. procumbens*, *A. saxatile*: 60;
7. Amaranthus – *Amaranthus* spp: 65;
8. Anagalis (primpernel) – *Anagalis arvensis*, *Anagalis coerulea*, *Anagalis grandiflora*: 60;
9. Anemone – *Anemone coronaria*, *A. pulsatilla*: 55;
10. Angel's Trumpet – *Datura arborea*: 60;
11. Arabis – *Arabis alpine*: 60;
12. Arctotis (African lilac daisy) – *Arctotis grandis*: 45;
13. Armeria – *Armeria formosa*: 55;
14. Asparagus, fern – *Asparagus plumosus*: 50;
15. Asparagus, sprenger, *Asparagus sprenger*: 55;
16. Aster, China – *Callistephus chinensis*; except Pompon, Powderpuff, and Princess types: 55;
17. Aster, China – *Callistephus chinensis*; Pompon, Powderpuff, and Princess types: 50;
18. Aubretia – *Aubretia deltoidea*: 45;
19. Baby Smilax – *Aparagus asparagoides*: 25;
20. Balsam – *Impatiens balsamina*: 70;
21. Begonia – (*Begonia fibrous rooted*): 60;
22. Begonia – (*Begonia tuberous rooted*): 50;
23. Bells of Ireland – *Molucella laevis*: 60;
24. Brachycome (swan river daisy) – *Brachycome iberidifolia*: 60;
25. Browallia – *Browallia elata* and *B. speciosa*: 65;
26. Bupthalam (sunwheel) – *Bupthalam salicifolium*: 60;
27. Calceolaria – *Calceolaria* spp: 60;
28. Calendula – *Calendula officinalis*: 65;
29. California Poppy – *Eschscholtzia californica*: 60;
30. Calliopsis – *Coreopsis bicolor*, *C. drummondi*, *C. elegans*: 65;
31. Campanula:
  - a. Canterbury Bells – *Campanula medium*: 60;
  - b. Cup and Saucer Bellflower – *Campanula medium calycanthema*: 60;
  - c. Carpathian Bellflower – *Campanula carpatica*: 50;
  - d. Peach Bellflower – *Campanula persicifolia*: 50;
32. Candytuft, Annual – *Iberis amara*, *I. umbellata*: 65;
33. Candytuft, Perennial – *Iberis gibraltarica*, *I. semper-virens*: 55;
34. Castor Bean – *Ricinus communis*: 60;
35. Cathedral Bells – *Cobaea scandens*: 65;
36. Celosia argentea: 65;
37. Centaurea: Basket Flower – *Centaurea americana*, Cornflower – *C. cyanus*, Dusty Miller – *C. candidissima*, Royal Centaurea – *C. imperialis*, Sweet Sultan – *C. moschata*, Velvet Centaurea – *C. gymnocarpa*: 60;
38. Snow-in-Summer *Cerastium biebersteini* and *C. tomentosum*: 65;
39. Chinese Forget-me-not – *Cynoglossum amabile*: 55;
40. Chrysanthemum, Annual – *Chrysanthemum carinatum*, *C. coronarium*, *C. Cineraria* – *Senecio cruentus*: 60;
41. Clarkia – *Clarkia elegans*: 65;
42. Cleome – *Cleome gigantea*: 65;
43. Coleus – *Coleus blumei*: 65;
44. Columbine – *Aquilegia* spp.: 50;
45. Coral Bells – *Heuchera sanguinea*: 55;
46. Coreopsis, Perennial – *Coreopsis lanceolata*: 40;
47. Corn, ornamental – *Zea mays*: 75;
48. Cosmos: Sensation, Mammoth and Crested types – *Cosmos bipinnatus*; Klondyke type – *C. sulphureus*: 65;
49. Crossandra – (*Crossandra infundibuliformis*): 50;
50. Dahlia – *Dahlia* spp: 55;
51. Daylily – *Hemerocallis* spp: 45;
52. Delphinium, Perennial – *Belladonna* and *Bellamosum* types; Cardinal Larkspur – *Delphinium cardinale*; *Chinensis* types; Pacific Giant, Gold Medal and other hybrids of *D. elatum*: 55;
53. Dianthus:
  - a. Carnation – *Dianthus caryophyllus*: 60;
  - b. China Pinks – *Dianthus chinensis*, *heddewigi*, *heddensis*: 70;
  - c. Grass Pinks – *Dianthus plumarius*: 60;
  - d. Maiden Pinks – *Dianthus deltoids*: 60;
  - e. Sweet William – *Dianthus barbatus*: 70;
  - f. Sweet Wivelsfield – *Dianthus allwoodi*: 60;
54. Didiscus – (blue lace flower) – *Didiscus coerulea*: 65;
55. Doronicum (leopard's bane) – *Doronicum caucasicum*: 60;
56. Dracaena – *Dracaena indivisa*: 55;
57. Dragon Tree – *Dracaena draco*: 40;
58. English Daisy – *Bellis perennis*: 55;
59. Flax – Golden flax (*Linum flavum*); Flowering flax *L. randiflorum*; Perennial flax, *L. perenne*: 60;
60. Flowering Maple – *Abutilon* spp: 35;
61. Foxglove – *Digitalis* spp: 60;
62. Gaillardia, Annual – *Gaillardia pulchella*; *G. picta*; Perennial – *G. grandiflora*: 45;
63. Gerbera (transvaal daisy) – *Gerbera jamesoni*: 60;
64. Geum – *Geum* spp: 55;
65. Gilia – *Gilia* spp: 65;
66. Glosiosa daisy (*rudbeckia*) – *Echinacea purpurea* and *Rudbeckia Hirta*: 60;
67. Gloxinia – (*Sinningia speciosa*): 40;
68. Godetia – *Godetia amoena*, *G. grandiflora*: 65;
69. Gourds: Yellow Flowered – *Cucurbita pepo*; White Flowered – *Lagenaria sisceraria*; Dishcloth – *Luffa cylindrica*: 70;
70. Gypsophila: Annual Baby's Breath – *Gypsophila elegans*; Perennial Baby's Breath – *G. paniculata*, *G. pacifica* *G. repens*: 70;
71. Helenium – *Helenium autumnale*: 40;
72. Helichrysum – *Helichrysum monstrosum*: 60;
73. Heliopsis – *Heliopsis scabra*: 55;
74. Heliotrope – *Heliotropium* spp: 35;
75. Helipterum (Acroclinium) – *Helipterum roseum*: 60;
76. Hesperis (sweet rocket) – *Hesperis matronalis*: 65;
77. \*Hollyhock – *Althea rosea*: 65;
78. Hunnemanian (mexican tulip poppy) – *Hunnemanian fuma-riaefolia*: 60;
79. Hyacinth bean – *Dolichos lablab*: 70;
80. Impatiens – *Impatiens hostii*, *I. sultanii*: 55;
81. \*Ipomoea – Cypress Vine – *Ipomoea quamoclit*; Moonflower – *I. noctiflora*; Morning Glories, Cardinal Climber, Hearts and Honey Vine – *Ipomoea* spp: 75;
82. Jerusalem cross (maltese cross) – *Lychnis chalcadonica*: 70;
83. Job's Tears – *Coix lacrymajobi*: 70;
84. Kochia – *Kochia childsi*: 55;
85. Larkspur, Annual – *Delphinium ajacis*: 60;
86. Lantana – *Lantana camara*, *L. hybrida*: 35;
87. Lilium (regal lily) – *Lilium regale*: 50;
88. Linaria – *Linaria* spp: 65, exception: *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax which is a prohibited noxious weed;
89. Lobelia, Annual – *Lobelia erinus*: 65;
90. Lunaria, Annual – *Lunaria annua*: 65;
91. \*Lupine – *Lupinus* spp: 65;
92. Marigold – *Tagetes* spp: 65;
93. Marvel of Peru – *Mirabilis jalapa*: 60;
94. Matricaria (feverfew) – *Matricaria* spp: 60;
95. Mignonette – *Reseda odorata*: 55;

96. *Myosotis* – *Myosotis alpestris*, *M. oblongata*, *M. palustris*: 50;
  97. *Nasturtium* – *Tropaeolum* spp: 60;
  98. *Nemesia* – *Nemesia* spp: 65;
  99. *Nemophila* – *Nemophila insignis*: 70;
  100. *Nemophila*, spotted – *Nemophila maculata*: 60;
  101. *Nicotiana* – *Nicotiana affinis*, *N. sanderiae*, *N. sylvestris*: 65;
  102. *Nierembergia* – *Nierembergia* spp: 55;
  103. *Nigella* – *Nigella damascena*: 55;
  104. Pansy – *Viola tricolor*: 60;
  105. *Penstemon* – *Penstemon barbatus*, *P. grandiflorus*, *P. laevigatus*, *P. pubescens*: 60;
  106. *Petunia* – *Petunia* spp: 45;
  107. *Phacelia* – *Phacelia campanularia*, *P. minor*, *P. tanacetifolia*: 65;
  108. Phox, Annual – *Phlox drummondii* all types and varieties: 55;
  109. *Physalis* – *Physalis* spp: 60;
  110. *Platycodon* (balloon flower) – *Platycodon grandiflorum*: 60;
  111. Plumbago, cape – *Plumbago capensis*: 50;
  112. Ponytail – *Beaucarnea recurvata*: 40;
  113. Poppy: Shirley Poppy – *Papaver rhoeas*; Iceland Poppy – *P. nudicaule*; Oriental Poppy – *P. orientale*; Tulip Poppy – *P. glaucum*: 60;
  114. Portulaca – *Portulaca grandiflora*: 55;
  115. Primula (primrose) – *Primula* spp: 50;
  116. Pyrethrum (painted daisy) – *Pyrethrum coccineum*: 60;
  117. *Salpiglossis* – *Salpiglossis gloxinaeflora*, *S. sinuata*: 60;
  118. *Salvia* – Scarlet Sage – *Salvia splendens*; Mealycup Sage (Blue bedder) – *Salvia farinacea*: 50;
  119. *Saponaria* – *Saponaria ocymoides*, *S. vaccaria*: 60;
  120. Scabiosa, Annual – *Scabiosa atropurpurea*: 50;
  121. Scabiosa, Perennial – *Scabiosa caucasica*: 40;
  122. *Schizanthus* – *Schizanthus* spp: 60;
  123. \*Sensitive plant (mimosa) – *Mimosa pudica*: 65;
  124. Shasta Daisy – *Chrysanthemum maximum* C. *leucanthemum*: 65;
  125. Silk Oak – *Grevillea robusta*: 25;
  126. Snapdragon – *Antirrhinum* spp: 55;
  127. *Solanum* – *Solanum* spp: 60, exceptions; *Solanum carolinense* – Carolina horsenettle and *Solanum elaeagnifolium* – Silverleaf Nightshade which are prohibited noxious weeds;
  128. *Statice* – *Statice sinuata*, *S. suworonii* (flower heads): 50;
  129. Stocks: Common – *Mathiola incana*; Evening Scented – *Mathiola bicornis*: 65;
  130. Sunflower – *Helianthus* spp: 70, exception; *Helianthus ciliaris* DC. – Texas blueweed which is a prohibited noxious weed;
  131. Sunrose – *Helianthemum* spp: 30;
  132. \*Sweet Pea, Annual and Perennial other than dwarf bush – *Lathyrus odoratus*, *L. latifolius*: 75;
  133. \*Sweet Pea, Dwarf Bush – *Lathyrus odoratus*: 65;
  134. Tahoka Daisy – *Machaeanthra tanacetifolia*: 60;
  135. *Thunbergia* – *Thunbergia alata*: 60;
  136. Torch Flower – *Tithonia speciosa*: 70;
  137. *Torenia* (Wishbone Flower) – *Torenia fournieri*: 70;
  138. *Tritoma kniphofia* Spp: 65;
  139. Verbena, Annual – *Verbena hybrida*: 35;
  140. Vinca – *Vinca rosea*: 60;
  141. Viola – *Viola cornuta*: 55;
  142. Virginian Stocks – *Malcolmia maritima*: 65;
  143. Wallflower – *Cheiranthus allioni*: 65;
  144. Yucca (Adam's Needle) – *Yucca filamentosa*: 50;
  145. *Zinnia* (Except Linearis and Creeping) – *Zinnia angustifolia*, *Z. elegans*, *Z. grandiflora*, *Z. gracillima*, *Z. haegeana*, *Z. multiflora*, *Z. pumila*: 65;
  146. *Zinnia*, Linearis and Creeping – *Zinnia linearis*, *Sanvitalia procumbens*: 50;
  147. All Other Kinds: 50.
- C. The germination labeling provisions of R3-4-402(E) apply to the following tree and shrub species:
1. *Abies amabilis* (Dougl.) Forbes – Pacific Silver Fir;
  2. *Abies balsamea* (L.) Mill. – Balsam Fir;
  3. *Abies concolor* (Gord. Glend.) Lindl. – White Fir;
  4. *Abies fraseri* (Pursh.) Poir – Fraser Fir;
  5. *Abies grandis* (Dougl.) Lindl. – Grand Fir;
  6. *Abies homolepis* Sieb Zucc. – Nikko Fir;
  7. *Abies lasiocarpa* (Hook) Nutt. – Subalpine Fir;
  8. *Abies magnifica* A. Murr. – California Red Fir;
  9. *Abies magnifica* var. *shastensis* Lemm. – Shasta Red Fir;
  10. *Abies procera* Rehd. – Nobel Fir;
  11. *Abies veitchii* (Lindl.) – Veitch Fir;
  12. *Acer ginnala* Maxim. – Amur Maple;
  13. *Acer macrophyllum* Pursh. – Bigleaf Maple;
  14. *Acer negundo* L. – Boxelder;
  15. *Acer pensylvanicum* L. – Striped Maple;
  16. *Acer platanoides* L. – Norway Maple;
  17. *Acer pseudoplatanus* L. – Sycamore Maple;
  18. *Acer rubrum* L. – Red Maple;
  19. *Acer saccharinum* L. – Silver Maple;
  20. *Acer saccharum* Marsh. – Sugar Maple;
  21. *Acer spicatum* Lam. – Mountain Maple;
  22. *Aesculus pavia* L. – Red Buckeye;
  23. *Ailanthus altissima* (Mill.) Swingle – Tree of Heaven, *Ailanthus*;
  24. *Berberis thunbergii* DC. – Japanese Barberry;
  25. *Berberis vulgaris* L. European Barberry;
  26. *Betula lenta* L. – Sweet Birch;
  27. *Betula alleghaniensis* Britton – Yellow Birch;
  28. *Betula nigra* L. – River Birch;
  29. *Betula papyrifera* Marsh. – Paper Birch;
  30. *Betula pendula* Roth. – European White Birch;
  31. *Betula populifolia* Marsh. – Gray Birch;
  32. *Carya illinoensis* (Wang.) K. Koch – Pecan;
  33. *Carya ovata* (Mill) K. Koch – Shagbark Hickory;
  34. *Casuarina* spp. – Beefwood;
  35. *Catalpa bignonioides* Walt. – Southern Catalpa;
  36. *Catalpa speciosa* Warder. – Northern Catalpa;
  37. *Cedrus atlantica* Manetti – Atlas Cedar;
  38. *Cedrus deodara* (Roxb.) Loud. – Deodar Cedar;
  39. *Cedrus libani* (Loud.) – Cedar of Lebanon;
  40. *Celastrus scandens* L. – American Bittersweet;
  41. *Celastrus orbiculata* Thunb. – Oriental Bittersweet;
  42. *Chamaecyparis lawsoniana* (A. Murr.) Parl – Port Oxford Cedar;
  43. *Chamaecyparis nootkatensis* (D. Don.) Spach. – Alaska Cedar;
  44. *Cornus florida* L. – Flowering Dogwood;
  45. *Cornus stolonifera* Michx. – Red-osier Dogwood;
  46. *Crataegus mollis* – Downy Hawthorn;
  47. *Cupressus arizonica* Greene – Arizona Cypress;
  48. *Eucalyptus deglupta*;
  49. *Eucalyptus gradis*;
  50. *Fraxinus americana* L. – White Ash;
  51. *Fraxinus excelsior* L. – European Ash;
  52. *Fraxinus latifolia* Benth. – Oregon Ash;
  53. *Fraxinus nigra* Marsh. – Black Ash;
  54. *Fraxinus pensylvanica* Marsh. – Green Ash;

55. *Fraxinus pensylvanica* var. *lanceolata* (Borkh.) Sarg. – Green Ash;
  56. *Gleditsia triacanthos* L. – Honey Locust;
  57. *Grevillea robusta* – Silk-oak;
  58. *Larix decidua* Mill. – European Larch;
  59. *Larix eurolepis* Henry – Dunkfeld Larch;
  60. *Larix leptolepis* (Sieb. Zucc.) Gord. – Japanese Larch;
  61. *Larix occidentalis* Nutt. – Western Larch;
  62. *Larix sibirica* Ledeb. – Siberian Larch;
  63. *Libocedrus decurrens* – Incense-Cedar;
  64. *Liquidambar styraciflua* L. – Sweetgum;
  65. *Liriodendron tulipifera* L. – Yellow-Poplar;
  66. *Magnolia grandiflora* – Southern Magnolia;
  67. *Malus* spp. – Apple;
  68. *Malus* spp. – Crabapple;
  69. *Nyssa aquatica* L. – Water Tupelo;
  70. *Nyssa sylvatica* var. *sylvatica* – Black Tupelo;
  71. *Picea abies* (L.) Karst. – Norway Spruce;
  72. *Picea engelmanni* Parry – Engelmann Spruce;
  73. *Picea glauca* (Moench.) Voss – White Spruce;
  74. *Picea glauca* var. *albertiana* (S. Brown) Sarg. – Western White Spruce, Alberta White Spruce;
  75. *Picea glehnii* (Fr. Schmidt) Mast. – Sakhalin Spruce;
  76. *Picea jezoensis* (Sieb. Zucc.) Carr – Yeddo Spruce;
  77. *Picea koyamai* Shiras. – Koyama Spruce;
  78. *Picea mariana* (Mill.) B.S.P. – Black Spruce;
  79. *Picea omorika* (Pancic.) Purkyne – Serbian Spruce;
  80. *Picea orientalis* (L.) Link. – Oriental Spruce;
  81. *Picea polita* (Sieb. Zucc.) Carr – Tigertail Spruce;
  82. *Picea pungens* Engelm. – Blue Spruce, Colorado Spruce;
  83. *Picea pungens* var. *glauca* Reg. – Colorado Blue Spruce;
  84. *Picea rubens* Sarg. – Red Spruce;
  85. *Picea sitchensis* (Bong.) Carr – Sitka Spruce;
  86. *Pinus albicaulis* Engelm. – Whitebark Pine;
  87. *Pinus aristata* Engelm. – Bristlecone Pine;
  88. *Pinus banksiana* Lamb. – Jack Pine;
  89. *Pinus canariensis* C. Smith – Canary Pine;
  90. *Pinus caribaea* – Caribbean Pine;
  91. *Pinus cembroides* Zucc. – Mexican Pinyon Pine;
  92. *Pinus clausa* – Sand Pine;
  93. *Pinus conorta* Dougl. – Lodgepole Pine;
  94. *Pinus contorta* var. *latifolia* Engelm. – Lodgepole Pine;
  95. *Pinus coulteri* D. Don. – Coulter Pine, Bigcone Pine;
  96. *Pinus densiflora* Sieb. Zucc. – Japanese Red Pine;
  97. *Pinus echinata* Mill. – Shortleaf Pine;
  98. *Pinus elliottii* Engelm. – Slash Pine;
  99. *Pinus flexilis* James – Limber Pine;
  100. *Pinus glabra* Walt. – Spruce Pine;
  101. *Pinus griffithi* McClelland – Himalayan Pine;
  102. *Pinus halepensis* Mill. – Aleppo Pine;
  103. *Pinus jeffreyi* Grev. Balf. – Jeffrey Pine;
  104. *Pinus khasya* Royle – Khasia Pine;
  105. *Pinus lambertiana* Dougl. – Sugar Pine;
  106. *Pinus heldreichii* var. *leucodermis* (Ant.) Markgraf ex Fitschen – Balkan Pine, Bosnian Pine;
  107. *Pinus markusii* DeVries – Markus Pine;
  108. *Pinus monticola* Dougl. – Western White Pine;
  109. *Pinus mugo* Turra. – Mountain Pine;
  110. *Pinus mugo* var. *mughus* (Scop.) Zenari – Mugo Swiss Mountain Pine;
  111. *Pinus muricata* D. Don. – Bishop pine;
  112. *Pinus nigra* Arnold – Austrian Pine;
  113. *Pinus nigra* poiretiana (Ant.) Aschers Graebn. – Corsican Pine;
  114. *Pinus palustris* Mill. – Longleaf Pine;
  115. *Pinus parviflora* Sieb. Zucc. – Japanese White Pine;
  116. *Pinus patula* Schl. Cham. – Jelecote Pine;
  117. *Pinus pinaster* Sol. – Cluster Pine;
  118. *Pinus pinea* L. – Italian Stone Pine;
  119. *Pinus ponderosa* Laws. – Ponderosa Pine, Western Yellow Pine;
  120. *Pinus radiata* D. Don. – Monterey Pine;
  121. *Pinus resinosa* Ait. – Red Pine, Norway Pine;
  122. *Pinus rigida* Mill. – Pitch Pine;
  123. *Pinus serotina* Michx. – Pond Pine;
  124. *Pinus strobus* L. – Eastern White Pine;
  125. *Pinus sylvestris* L. – Scots Pine;
  126. *Pinus taeda* L. – Loblolly Pine;
  127. *Pinus taiwanensis* Hayata – Formosa Pine;
  128. *Pinus thunbergii* Parl. – Japanese Black Pine;
  129. *Pinus virginiana* Mill. – Virginia Pine, Scrub Pine;
  130. *Platanus occidentalis* L. – American Sycamore;
  131. *Populus* spp. – Poplars;
  132. *Prunus armeriaca* L. – Apricot;
  133. *Prunus avium* L. – Cherry;
  134. *Prunus domestica* L. – Plum, Prune;
  135. *Prunus persica* Batsch. – Peach;
  136. *Pseudotsuga menziesii* var. *glauca* (Beissn.) Franco – Blue Douglas Fir;
  137. *Pseudotsuga menziesii* var. *caesia* (Beissn.) Franco – Gray Douglas Fir;
  138. *Pseudotsuga menziesii* var. *viridis* – Green Douglas Fir;
  139. *Pyrus communis* L. – Pear;
  140. *Quercus* spp. – (Red or Black Oak group);
  141. *Quercus alba* L. – White Oak;
  142. *Quercus muehlenbergii* Engelm. – Chinkapin Oak;
  143. *Quercus virginiana* Mill. – Live Oak;
  144. *Rhododendron* spp. – Rhododendron;
  145. *Robinia pseudoacacia* L. – Black Locust;
  146. *Rosa multiflora* Thunb. – Japanese Rose;
  147. *Sequoia gigantea* (Lindl.) Decne. – Giant Sequoia;
  148. *Sequoia sempervirens* (D. Don.) Engl. – Redwood;
  149. *Syringa vulgaris* L. – Common Lilac;
  150. *Thuja occidentalis* L. – Northern White Cedar, Eastern Arborvitae;
  151. *Thuja orientalis* L. – Oriental Arborvitae, Chinese Arborvitae;
  152. *Thuja plicata* Donn. – Western Red Cedar – Giant Arborvitae;
  153. *Tsuga canadensis* (L.) Carr. – Eastern Hemlock, Canada Hemlock;
  154. *Tsuga heterophylla* (Raf.) Sarg. – Western Hemlock, Pacific Hemlock;
  155. *Ulmus americana* L. – American Elm;
  156. *Ulmus parvifolia* Jacq. – Chinese Elm;
  157. *Ulmus pumila* L. – Siberian Elm; and
  158. *Vitis vulpina* L. – Riverbank Grape.
- D.** A person shall not indicate a quality of seed higher than the actual quality as found through germination test.
- E.** The labeler or the person who sells, offers, or exposes for sale within this state seeds in hermetically-sealed containers more than 36 months after the last day of the month in which the seeds were tested prior to packaging, shall retest the seeds within nine months, excluding of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-113 renumbered without change as Section R3-4-404 (Supp. 89-1). Section R3-4-404 renumbered from R3-1-404 (Supp. 91-4). Section repealed, new Section R3-4-404 renumbered from R3-4-406 and

amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

#### **R3-4-405. Seed-certifying Agencies**

- A.** Any agency seeking to obtain designation as a seed-certifying agency in Arizona shall meet the following requirements.
1. The agency shall be qualified by USDA to certify agricultural or vegetable planting seed as to variety, strain, and genetic purity.
  2. The agency shall have a written seed certification protocol which includes standards, rules, and procedures for the certification of planting seed.
  3. The agency shall have procedures for accepting crops and varieties into a certification program.
  4. The agency shall be a member in good standing of a USDA-recognized association of official seed-certifying agencies such as the Association of Official Seed Certifying Agencies.
- B.** The Director or the Director's designee shall meet each calendar year with the director of the seed-certifying agency to review the agency's standards, rules, and procedures.
- C.** The Director may, after consulting with the Director of the Arizona Agricultural Experiment Station, revoke the agency's designation as the state seed-certifying agency after written 30 days' notice if the organization:
1. Fails to maintain qualifications, protocols, procedures, and membership as set forth in subsection (A); or
  2. Fails to follow federal and state standards, rules, and procedures.

#### **Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-114 renumbered without change as Section R3-4-405 (Supp. 89-1). Section R3-4-405 renumbered from R3-1-405 (Supp. 91-4). Section R3-4-405 renumbered to R3-4-403, new Section R3-4-405 renumbered from R3-4-407 and amended effective July 10, 1995 (Supp. 95-3).

#### **R3-4-406. Sampling and Analyzing Seed**

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

#### **Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-115 renumbered without change as Section R3-4-406 (Supp. 89-1). Section R3-4-406 renumbered from R3-1-406 (Supp. 91-4). Section R3-4-406 renumbered to R3-4-404, new Section R3-4-406 renumbered from R3-4-408 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1286, effective May 31, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

#### **R3-4-407. Phytosanitary Field Inspection; Fee**

- A.** Applicants seeking phytosanitary certification for interstate and international exportation of agriculture, vegetable, and ornamental planting seed shall submit a \$20.00 inspection fee and provide the following information on a form furnished by the Department:
1. The company name and address of the applicant;
  2. The kind, variety, and lot number of the seed;
  3. The number of acres on which the seed will be grown;
  4. The name of the grower;
  5. The county and field location;
  6. The date of the application;
  7. The countries of export;
  8. The seed treatment, if applicable;
  9. The amount of treatment, if applicable;
  10. The approximate planting date;
  11. The approximate harvest date; and
  12. The export requirements.
- B.** The Department may contract with the state-certifying agency for field inspection at 20¢ per acre for any first or single required inspection and 10¢ per acre for each subsequent required inspection which shall be performed in conjunction with the seed certification program.
- C.** Field inspections conducted by the Department shall be based upon the following fee schedule and shall not exceed the maximum fee prescribed by A.R.S. § 3-233(A)(7):
1. Cotton: 80¢ per acre;
  2. Small grain: 20¢ per acre for the first inspection and 80¢ for the second inspection;
  3. Vegetable and all other crops: 20¢ for the first inspection and 80¢ for the second inspection.
- D.** If both the field inspection fee and the application fee exceeds the maximum fee per acre prescribed by A.R.S. § 3-233(A)(7), the application fee shall be voided and the maximum cost per acre shall be assessed.

#### **Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-116 renumbered without change as Section R3-4-407 (Supp. 89-1). Section R3-4-407 renumbered from R3-1-407 (Supp. 91-4). Section R3-4-407 renumbered to R3-4-405, new Section adopted effective July 10, 1995 (Supp. 95-3).

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

- A.** An applicant for a seed dealer or seed labeler license shall provide the following to the Department:
1. The year for which the applicant wishes to be licensed;
  2. The applicant's name, company name, telephone number, fax number and e-mail address, as applicable;
  3. Verification of previous seed dealer or labeler license, if applicable;
  4. The mailing and physical address of each business location being licensed;
  5. Company Tax ID number or if not a legally-recognized business entity, the applicant's Social Security number;

6. The date of the application; and
7. The signature of the applicant.
- B.** Seed dealer and seed labeler licenses are not transferable, expire on June 30, and are valid for no more than one year, or period thereof, unless otherwise revoked, suspended, denied or otherwise acted upon by the Department as provided in A.R.S. § 3-233(A)(6).
- C.** An applicant shall submit a completed application to the Department accompanied by the following fee, which is non-refundable unless A.R.S. § 41-1077 applies.
  1. Seed dealers, \$50.00 per location; and
  2. Seed labelers, \$100.00.
- D.** During fiscal year 2011 and fiscal year 2012, notwithstanding subsection (C), there is no fee to obtain a seed dealer or seed labeler license.

#### Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-117 renumbered without change as Section R3-4-408 (Supp. 89-1). Section R3-4-408 renumbered from R3-1-408 (Supp. 91-4). Section R3-4-408 renumbered to R3-4-406, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 2029, effective September 21, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1763, effective July 20, 2011 (Supp. 11-3).

#### R3-4-409. Violations and Penalties

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

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

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

#### ARTICLE 5. COLORED COTTON

##### R3-4-501. Colored Cotton Production and Processing

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-101 and R3-4-102, the following terms apply to this Section:
  1. "Certified" means having been inspected with a written certificate of inspection issued by an inspector of the Department.

2. "Colored cotton" means any variety of cotton plants of the Genus *Gossypium* that produces fiber that is naturally any color other than white.
  3. "Cottonseed" means processed seed cotton used for propagation, animal feed, crushed or composted fertilizer, or oil.
  4. "Composting" means a process that creates conditions that facilitate the controlled decomposition of organic matter into a more stable and easily handled soil amendment or fertilizer, usually by piling, aerating and moistening; or the product of such a process.
  5. "Delinting" means the process of using acid, flame, or mechanical means to remove fiber that remains on cottonseed after ginning.
  6. "Planting seed" means seed of a known variety produced for planting subsequent generations.
  7. "Seed cotton" means raw cotton containing seed and lint that has been harvested from a field, but has not been ginned.
  8. "White cotton" means any variety of the Genus *Gossypium* that produces white fiber as established in 28 U.S.C. 401 through 451, the Official Cotton Standards of the United States for the Color Grade of American Upland Cotton, revised July 1, 1993; and Cotton Classification Results, revised July 1994. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Production requirements.**
1. A producer who intends to grow colored cotton shall register in writing with the Department. The registration form shall be received at least 30 days before the cotton planting date for the applicable cultural cotton zone established in R3-4-204. Any colored cotton not registered with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, and the producer may be assessed a civil penalty as established in A.R.S. § 205.02. The registration shall include:
    - a. The name, address, telephone number, and signature of the producer;
    - b. The name, address, telephone number, and signature of the property owner;
    - c. The name, address, and telephone number of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
    - d. The total number of acres to be planted;
    - e. The geographical location of the proposed fields by county, section, township and range; and
    - f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
  2. Separation of white and colored cotton.
    - a. A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
    - b. All producers of white cotton saved for planting seed shall comply with the Field Standards in the Arizona Crop Improvement Association's Cotton Seed Certification Standards, revised July 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
  3. A producer shall not plant white cotton on land on which colored cotton has been grown until one or more irrigated non-cotton crops have been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as established by R3-4-204(E), the field shall be irrigated before planting a white cotton crop.
- C. Cotton appliances.**
1. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation, or handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber, and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.
  2. Colored seed cotton, cottonseed, fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner:
    - a. On land where gin trash has previously been disposed and the land is managed as specified in subsection (B)(3); or
    - b. In a landfill approved by the Department.
  3. The Department shall legibly mark cotton appliances designated for exclusive use on colored cotton crops.
- D. Transportation.** Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.
- E. Gin requirements.**
1. A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days before processing the colored cotton.
  2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification from the gin.
  3. A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and inspected by the Department. The gin shall be free of cottonseed, seed cotton, and loose lint as established in subsection (C)(1).
  4. If a gin processes colored seed cotton and white seed cotton during the same season, and the white cottonseed is not retained by the plant breeder for research purposes, the producer shall market the white cottonseed as:
    - a. Animal feed,
    - b. Crushed or composted fertilizer, or
    - c. Oil.
  5. The ginner shall legibly mark colored seed cotton kept in the gin yard or gin buildings and shall:
    - a. Isolate the seed cotton at least 500 feet from white seed cotton, or
    - b. Enclose it with two foot high chicken wire or chain link fencing.
  6. Gin trash not disposed as established in subsection (C)(2) shall be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR 301.52 et seq., amended August 30, 1994. This material is incorporated by reference, does not include any later amendments or editions

of the incorporated matter, and is on file with the Office of the Secretary of State.

7. The ginner shall bale or bag colored cotton fiber and mark the bale or bag as colored cotton.

**F. Seed Requirements.**

1. A producer or contracting organization, set forth in subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed container and notify the Department of:
  - a. The quantity,
  - b. The variety or color,
  - c. The location where the colored planting seed is held or stored, and
  - d. Whether any seed will be shipped out-of-state.
2. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subsection (B)(2)(b).
3. The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not used for propagative purposes by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR 301.52 et seq.
4. Cotton producers shall not transport unbagged white cotton planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department has certified that these vehicles and equipment are free of colored cottonseed.

**G. Advisory committee.** The Director shall appoint an advisory committee, under A.R.S. § 3-106, to review colored cotton statutes and rules, inspection procedures, and certification methods. The committee shall be appointed for two-year staggered terms and a member may be reappointed for one additional term. The committee shall consist of one representative from each of the following categories:

1. The Cotton Research and Protection Council,
2. The Arizona Crop Improvement Association,
3. The Arizona Department of Agriculture,
4. The Arizona Cotton Growers Association,
5. A colored cotton producer,
6. A ginner ginning colored cotton, and
7. A contractor for the production of colored cotton.

**Historical Note**

Former Rule, Apiary Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Former Section R3-4-120 renumbered without change as Section R3-4-501 (Supp. 89-1). Former Section repealed, new Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-4-501 renumbered from R3-1-501 (Supp. 91-4). Former Section R3-4-501 repealed, new Section R3-4-501 adopted effective October 15, 1993 (Supp. 93-4). R3-4-501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995 now the permanent effective date (Supp. 96-3). New Section R3-4-501 renumbered from R3-4-205 and amended April 9, 1998 (Supp. 98-2).

**R3-4-502. Repealed**

**Historical Note**

Adopted effective December 22, 1989 (Supp. 89-4) Section R3-4-502 renumbered from R3-1-502 (Supp. 91-4). Former Section R3-4-502 repealed, new Section R3-4-502 adopted effective October 15, 1993 (Supp. 93-4). R3-4-502 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-503. Repealed**

**Historical Note**

Adopted as an emergency effective December 31, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Adopted as a permanent rule effective April 4, 1985 (Supp. 85-2). Former Sections R3-4-121.01, R3-4-121.02, R3-4-121.03, and R3-4-121.04 added to Section R3-4-121 and amended effective October 8, 1987 (Supp. 87-4). Former Section R3-4-121 renumbered without change as Section R3-4-502 (Supp. 89-1). Former Section R3-4-502 renumbered without change as Section R3-4-503 (Supp. 89-4). Repealed effective August 16, 1990 (Supp. 90-3). Section R3-4-503 renumbered from R3-1-503 (Supp. 91-4). New Section R3-4-503 adopted effective October 15, 1993 (Supp. 93-4). R3-4-503 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-504. Repealed**

**Historical Note**

Adopted as an emergency effective September 27, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-5). Emergency expired. Former Sections R3-4-122.01 through R3-4-122.03, emergency expired. New Section R3-4-122 adopted effective March 6, 1987 (Supp. 87-1). Former Section R3-4-122 renumbered without change as Section R3-4-503 (Supp. 89-1). Former Section R3-4-503 renumbered without change as Section R3-4-504 (Supp. 89-4). Section R3-4-504 renumbered from R3-1-504 (Supp. 91-4). Former Section R3-4-504 repealed, new Section R3-4-504 adopted effective October 15, 1993 (Supp. 93-4). R3-4-504 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-505. Repealed**

**Historical Note**

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-505 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).



**R3-4-506. Repealed****Historical Note**

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**ARTICLE 6. RECODIFIED**

*Article 6, consisting of Sections R3-4-601 through R3-4-611 and Appendix A, recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).*

**R3-4-601. Recodified****Historical Note**

Former Rule, Native Plant Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Amended by adding subsection (E) effective January 21, 1981 (Supp. 81-1). Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-130 renumbered without change as Section R3-4-601 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-601 renumbered from R3-1-601 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1101 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-602. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-131 renumbered without change as Section R3-4-602 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-602 renumbered from R3-1-602 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1102 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-603. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Correction, amendment effective May 15, 1984 deleted samples of forms (Supp. 86-1). Former Section R3-4-132 renumbered without change as Section R3-4-603 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-603 renumbered from R3-1-603 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section R3-4-603 renumbered from R3-4-605 and amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1103 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-604. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Former Section R3-4-133 renumbered without change as Section R3-4-604 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-604 renumbered from R3-1-604 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1104 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-605. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-134 renumbered without change as Section R3-4-605 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-605 renumbered from R3-1-605 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-605 renumbered to R3-4-603; new Section R3-4-605 adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1105 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-606. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-135 renumbered without change as Section R3-4-606 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-606 renumbered from R3-1-606 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1106 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-607. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-137 renumbered without change as Section R3-4-608 (Supp. 89-1). Former Section R3-4-607 repealed, new Section R3-4-607 renumbered from R3-4-608 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-607 renumbered from R3-1-607 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-607 repealed; new Section R3-4-607 renumbered from R3-4-616 and amended at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1107 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-608. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982

(Supp. 82-2). Former Section R3-4-138 renumbered without change as Section R3-4-609 (Supp. 89-1). Former Section R3-4-608 renumbered to R3-4-607, new Section R3-4-608 adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-608 renumbered from R3-1-608 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1108 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-609. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-139 renumbered without change as Section R3-4-610 (Supp. 89-1). Former Section R3-4-609 repealed, new Section R3-4-609 renumbered from R3-4-610 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-609 renumbered from R3-1-609 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1109 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-610. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-140 renumbered without change as Section R3-4-611 (Supp. 89-1). Former Section R3-4-610 renumbered to R3-4-609, new Section R3-4-610 renumbered from R3-4-611 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-610 renumbered from R3-1-610 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1110 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-611. Recodified****Historical Note**

Renumbered to R3-4-610 effective December 28, 1990 (Supp. 90-4). Section R3-4-611 renumbered from R3-1-611 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-611 repealed; new Section R3-4-611 renumbered from R3-4-618 and amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1111 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-612. Repealed****Historical Note**

Adopted effective April 30, 1982 (Supp. 82-2). Former Section R3-4-141 renumbered without change as Section R3-4-612 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-612 renumbered from R3-1-612 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed by final

rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-613. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-614. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-615. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-616. Renumbered****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-616 adopted effective January 17, 1989 (see also R3-4-615) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-616 renumbered from R3-1-616 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Section R3-4-616 renumbered to R3-4-607 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-617. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-618. Renumbered****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-618 renumbered from R3-1-618 (Supp. 91-4).

Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section R3-4-618 renumbered to R3-4-611 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-619. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-619 renumbered from R3-1-619 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-620. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-620 renumbered from R3-1-620 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-621. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-621 renumbered from R3-1-621 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-622. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-622 renumbered from R3-1-622 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-623. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-623 renumbered from R3-1-623 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-624. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-624 renumbered from R3-1-624 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-625. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-625 renumbered from R3-1-625 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-626. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-626 renumbered from R3-1-626 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-627. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-627 renumbered from R3-1-627 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-628. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-628 renumbered from R3-1-628 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-629. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-629 renumbered from R3-1-629 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-630. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-630 renumbered from R3-1-630 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-631. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-631 renumbered from R3-1-631 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-632. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-632 renumbered from R3-1-632 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-633. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633 renumbered from R3-1-633 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**Appendix A. Recodified****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633, Appendix A renumbered from R3-1-633, Appendix A (Supp. 91-4). Appendix A repealed, New Appendix A adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Appendix recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**ARTICLE 7. FRUIT AND VEGETABLE  
STANDARDIZATION****R3-4-701. Apple Standards**

The standards for apples in Arizona are the standards prescribed for U.S. No. 1 apples in the United States Standards for Grades of Apples, 7 CFR 51.300 et seq, revised as of January 1, 2003. This material is incorporated by reference and on file with the Department. This incorporation by reference contains no future additions or amendments.

**Historical Note**

Section R3-4-701 renumbered from R3-7-101 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 9 A.A.R. 4628, effective December 6, 2003 (Supp. 03-4).

**R3-4-702. Apricot Standards****A. Definitions.**

1. "Mature" means having reached the stage of maturity which will ensure the proper completion of the ripening process.
2. "Serious damage" includes any defect caused by limb rubs, growth cracks, dirt, scale, hail, disease, insects, mechanical injury, or any damage which causes breaking of the skin, or which affects the appearance or the edible or shipping quality of the apricot. Damage from well-

healed growth cracks more than 1/2 inch in length shall be considered as serious damage.

- B. Apricots shall be of one variety which are mature but not soft, overripe, or shriveled and which are free from decay, worm holes, and from serious damage.
- C. Not more than 5%, by count, of the apricots in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Former Rule 100. Section R3-4-702 renumbered from R3-7-102 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-703. Asparagus Standards

- A. Asparagus, when being packed or offered for sale, shall conform to the following standards:
  1. Asparagus spears shall not be wilted or crushed;
  2. Asparagus spears shall not be seriously damaged by spreading or seeded tips;
  3. Asparagus spears shall not be seriously damaged by crooks unless the container clearly indicates it contains crooks;
  4. Asparagus spears shall not have more than 2 inches of white on the butt, except that when bunched, 25% of the spears in any bunch may have up to 2 1/2 inches of white;
  5. Asparagus spears shall be free from decay and serious damage;
  6. Asparagus spears, when bunched, shall be uniform in size.
- B. Not more than 5%, by count, of the spears in any lot shall be allowed for any one cause and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Former Rule 101. Section R3-4-703 renumbered from R3-7-103 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-704. Beets and Turnip Standards

- A. Definition.  
“Serious damage” means damage caused by decay, disease, scab, nematode, growth cracks, mechanical injury, stringiness, woodiness, being misshapen, or any condition which would cause a loss of 20% or more of the root during preparation for use.
- B. Beets and turnips, when being packed or offered for sale, shall be free from serious damage.
- C. Not more than 10% of the beets or turnips in any one lot shall fail to meet the requirements prescribed in this Section.

#### Historical Note

Former Rule 102; Amended paragraph (7) effective June 11, 1986 (Supp. 86-3). Section R3-4-704 renumbered from R3-7-104 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-705. Broccoli Standards

- A. Definitions.
  1. “Bunch” means stalks bound together to form a unit. A single stalk may be considered a bunch if it is approximately as large as bunches in the lot.
  2. “Serious damage” means damage caused by means worm or insect injury, or any condition which would cause a loss of 20% or more, by volume, of any one stalk of broccoli.

3. “Stalk” means an individual unit of broccoli which consists of the stem, head cluster, and any attached leaves.

- B. Broccoli, when being packed or offered for sale, shall be free from mold, decay, and serious damage.
- C. Not more than 5%, by count, of a bunch of broccoli in any lot of containers or bulk lot shall be allowed for mold and decay and not more than 15%, by count, in any lot of containers or bulk lot shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Former Rule 103. Section R3-4-705 renumbered from R3-7-105 (Supp. 91-4). Former Section R3-4-705 renumbered to R3-4-736, new Section R3-4-705 adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-706. Brussels Sprouts Standards

- A. Definitions.
  1. “Discoloration” means the appearance is materially affected by discolored leaves or parts of discolored leaves.
  2. “Fairly firm” means the Brussels sprouts are not soft or spongy.
  3. “Fairly well colored” means that the Brussels sprouts shall not be lighter than yellowish green color.
  4. “Insects” means that:
    - a. There is serious damage by aphid infestation within the compact portion of the head; or
    - b. The outer leaves are seriously damaged by infestation; or
    - c. Slug worms or worm frass are present; or
    - d. The appearance is materially affected by slug or worm damage.
  5. “Seedstems” means the seedstem is showing or the formation of the seedstalk has plainly begun.
  6. “Serious damage” includes damage caused by discoloration, dirt or other foreign materials, freezing, disease, insects, mechanical injury.
- B. Brussels sprouts shall be fairly well colored, fairly firm, not withered or burst, and free from soft decay, seedstems, and serious damage.
- C. To allow for variations incident to proper grading and handling, not more than 5%, by weight, of the Brussels sprouts in any lot shall be allowed for any one defect and not more than 10%, by weight, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Former Rule 104. Section R3-4-706 renumbered from R3-7-106 (Supp. 91-4). Former Section R3-4-706 renumbered to R3-4-737, new Section R3-4-706 adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-707. Cabbage Standards

- A. Definition.  
“Serious damage” means damage caused by seedstems, discoloration, freezing, disease, insects, mechanical injury, or any condition which would cause a loss of 20% or more, by weight, of the head leaves.
- B. Cabbage, when being packed or offered for sale, shall be firm, not withered, puffy, or burst, and shall be free from soft rot and decay and from serious damage.
- C. Not more than 5%, by count, of the heads in any lot of containers or bulk lot shall be allowed for soft rot or decay and not more than 15%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Former Rule 105; Amended effective March 5, 1982 (Supp. 82-2). Section R3-4-707 renumbered from R3-7-107 (Supp. 91-4). Former Section R3-4-707 repealed, new Section R3-4-707 adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-708. Cantaloupe Standards; Maturity Sampling; Packing Arrangements****A. Definitions.**

1. "Mature" means that a cantaloupe has reached the stage of development that ensures the completion of the normal ripening process, the arils that surround the seed during development of maturity are absorbed, and the juice of the edible portion contains not less than nine percent soluble solids as determined by the standard hand refractometer.
2. "Serious damage" means damage caused by bruises, sunburn, growth cracks, cuts, sponginess, flabbiness, or wilting.

**B. Cantaloupes shall be:**

1. Mature but not overripe;
2. Fairly well-netted;
3. Free from mold, decay, and insect damage that penetrates or damages the edible portion of the cantaloupe; and
4. Free from serious damage.

**C. If a preliminary inspection of cantaloupes as prescribed at R3-4-738(A) indicates that further testing for maturity is required, the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot. The minimum number of cantaloupes selected from a lot for maturity sampling is as follows:**

<b>Melons Per Container</b>	<b>Min. Melons Per Container Tested</b>
9 or less	7
12	8
15	11
18	13
22	15
23	16
24 or more	2/3 of the melons, not to exceed 30 melons

- D. The Department shall not permit more than five percent, by count, of the cantaloupes in any one lot for any one defect and not more than 10 percent, by count, to fail the total requirements prescribed in this Section.
- E. All cantaloupes in each container shall be of one variety or of similar varietal characteristics.
- F. Cantaloupes packed in containers shall be uniform in size and packed in a compact arrangement.

**Historical Note**

Former Section R3-4-708 renumbered to R3-4-740, new Section R3-4-708 adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1).

**R3-4-709. Carrot Standards****A. Definition.**

"Serious damage" means damage caused by growth cracks, mechanical injury, being misshapen, or any condition which would cause a loss of 20% or more of the root during preparation for use.

- B. Carrots, when being packed or offered for sale, shall be free from decay and insect injury which has penetrated or damaged the flesh and shall be free from serious damage. Not more than 10% of any lot of carrots shall fail to meet these requirements.
- C. When bunched, carrots shall be uniform in size. When carrots range in diameter from 3/4 inch to 1 1/4 inches, a bunch shall contain 8 to 11 carrots, and if over 1 1/4 inches, five to seven carrots.
- D. Topped carrots when packed in lugs, boxes, crates, or sacks shall be uniform in size.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-710. Cauliflower Standards****A. Definition.**

"Serious damage" means damage caused by worm, insect injury, freezing, sunburn, or any other condition which would cause a loss of 20% or more of the edible portion of an individual head of cauliflower.

- B. Cauliflower, when being packed or offered for sale, shall be free from mold, decay, and serious damage.
- C. Cauliflower shall be trimmed to the number of leaves necessary to protect the head.
- D. Not more than 5%, by count, of heads of cauliflower in any lot of containers or bulk lot shall be allowed for mold and decay and not more than 15%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-711. Celery Standards****A. Definitions.**

1. "Pithy branches" means the stalk has more than four branches which are pithy; provided that not more than 10%, by count, of the stalks in any one lot or container are pithy.
2. "Seedstems" means that the stalk has a seedstem the length of which is more than twice the diameter of the stalk measured at a point 2 inches above the point of attachment at the root.
3. "Serious damage" includes damage caused by freezing, growth cracks, dirt, insect damage, seedstems, pithy branches, decay, black-heart, mechanical injury.

- B. Celery, when being packed or offered for sale, shall be fairly well developed, free from serious damage.
- C. The number of stalks in each container shall be specified by numerical count, or in terms of dozens or half-dozens, in block numerals not less than 1/2 inch in height on the container. A three-stalk variation from the specified count shall be allowed.
- D. Not more than 5%, by count, of the celery in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-712. Cherry Standards****A. Definitions.**

1. "Clean" means that the cherries are practically free from dirt, dust, spray residue, or other foreign material.
2. "Fairly well colored" means that the cherries show the characteristic color of mature cherries of the variety.
3. "Mature" means that the cherries have reached a stage of growth which will ensure the proper completion of the ripening process.

4. "Serious damage" includes damage caused by bruises, cracks, disease, hail, other insects, limb rub, pulled stems, russetting, scars, skin breaks, sunburn, sutures, mechanical injury.
  5. "Similar varietal characteristics" means that the cherries in any container are similar in color and shape.
  6. "Well-formed" means that the cherry has normal shape characteristic of the variety.
- B.** Cherries shall be of similar varietal characteristics which are mature but are not soft, overripe, or shriveled, and which are fairly well colored, well-formed, clean, and free from decay, worms or worm holes, undeveloped doubles, sun scald, and free from serious damage.
- C.** Not more than 5%, by count, of the cherries in any one lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.
- B.** Greens shall be of one variety, which are fresh, fairly tender, fairly clean, and which are free from decay and free from serious damage.
- C.** Not more than 5%, by weight, of the greens in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-713. Corn Standards**

- A.** Definition.  
"Serious damage" means wilting, shriveling, worms, disease, decay, insects, or any condition which would cause a loss of 10% or more to an individual ear of corn.
- B.** Corn, when being packed or offered for sale, shall be mature but not over-mature, as indicated by a "doughy" condition of the kernels, and shall be free from serious damage.
- C.** Not more than 10%, by count, of the ears in any lot shall fail to meet the requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-714. Endive, Escarole, or Chicory Standards**

- A.** Definitions.
1. "Fairly well blanched" means that the plant shall have a yellowish white to white heart formation with a spread averaging not less than four inches in diameter when the head is opened as far as possible without breaking the leaves or leaf stems.
  2. "Serious damage" includes damage caused by seedstems; broken, bruised, spotted or discolored leaves; wilting; dirt; disease; insects; mechanical injury.
  3. "Similar varietal characteristics" means that the plants shall be of the same type, such as curly-leaved endive or broad-leaved escarole.
  4. "Well trimmed" means that the root shall be neatly cut close to the point of attachment of the outer leaf stems.
- B.** Endive, escarole, or chicory shall consist of plants of similar varietal characteristics, which are fresh, well trimmed, fairly well blanched, free from decay and from serious damage.
- C.** In order to allow for variations incident to proper grading and handling, not more than 5%, by count, shall be allowed for decay; not more than 10%, by count, shall be allowed for any other cause; and not more than 15%, by count, shall fail to meet the total requirements prescribed in this Section;

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-715. Greens Standards (Collards, Rapini, Mustard, and Turnip)**

- A.** Definitions.
1. "Fairly clean" means that the appearance of the greens is not materially affected by the presence of mud, dirt, or other foreign materials.

2. "Fairly tender" means that the greens are not old, tough, or excessively fibrous.
  3. "Fresh" means that the leaves are not more than slightly wilted.
  4. "Serious damage" includes damage caused by discoloration, freezing, foreign material, seedstems, disease, insects, mechanical injury.
- B.** Greens shall be of one variety, which are fresh, fairly tender, fairly clean, and which are free from decay and free from serious damage.
- C.** Not more than 5%, by weight, of the greens in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-716. Head Lettuce Standards**

- A.** Definition.  
"Serious damage" means damage caused by broken midribs, bursting, freezing, or tipburn:
1. "Broken midribs" is considered serious damage when the midribs of more than four of the outer head leaves are broken and severed all the way across the midrib.
  2. "Bursting" is considered serious damage when the head is cracked or split open and any part of the inner portion of the head is exposed.
  3. "Freezing" is considered serious damage when it affects any portion of the head inside the six outer head leaves, and the tissue of the inner head leaves is brittle, soft, pithy, or discolored due to freezing.
  4. "Tipburn" is considered serious damage when the affected portion on one or more leaves, inside the six outer head leaves, exceeds an aggregate area of 1 inch by 1/2 inch and the color of the tipburn is light buff or darker. Serious damage does not include areas showing tan or brown specks with normal lettuce color between the specks.
- B.** Head lettuce, when being packed or offered for sale, shall:
1. Be mature;
  2. Be free from serious damage.
  3. Not be leafy without head formation;
  4. Have no more than six wrapper leaves adhering to the head;
  5. Be free from insect injury, slime, or decay affecting the leaves within the head;
  6. Be free from a seedstem present upon internal examination that is less than 1/2 inch from the top of the head of lettuce or exceeds 4 inches in length.

**LETTUCE SEEDSTEM**

- C.** Not more than 5%, by count, of the heads of lettuce in any one lot of containers or bulk lot shall contain decay or slime and

not more than 15%, by count, shall fail to meet all requirements prescribed in this Section.

- D.** Individual containers in any lot shall not contain more than 1 1/2 times the tolerance of defects prescribed in this Section provided the average percentage of defects in the entire lot is within the tolerances specified in subsection (C), as determined by inspection of a representative sample under R3-4-738.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).  
Amended by final rulemaking at 6 A.A.R. 4582, effective November 13, 2000 (Supp. 00-4).

### **R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons); Maturity Sampling**

#### **A. Definitions.**

1. "Mature" means that:
  - a. A melon has reached the stage of development that ensures proper completion of the normal ripening process and the arils that surround the seed during development of maturity are absorbed;
  - b. The juice of the edible portion of honeyball and honeydew melons contains not less than 10 percent soluble solids as determined by the standard hand refractometer; and
  - c. The flesh of a watermelon, except for yellow flesh watermelon, shall be colored to a degree not less than that indicated by Hue 4, Chrome H, in Plate 1, of A. Maerz and M. Rea Paul Dictionary of Color, first edition, published 1930. This material is incorporated by reference and is on file with the Department. This incorporation by reference contains no future editions or amendments.
2. "Serious damage" means damage to a melon caused by:
  - a. Growth cracks, cuts, bruises, or softness;
  - b. Beetle damage when it affects an area of more than 10 percent of the total surface of a watermelon;
  - c. Whiteheart if apparent on internal examination;
  - d. Sunburn when the sunburned area, regardless of size, is devoid of green coloration and is turning brown; or
  - e. Rindrot when the distinct brown color or decay in the edible flesh of at least one inch in aggregate occurs in the edible portion of a watermelon.

- B.** All melons, except watermelons, when packed or offered for sale, shall be:

1. Mature but not overripe;
2. Free from mold, decay, and insect damage that penetrates or damages the edible portion of the melon; and
3. Free from serious damage.

- C.** Watermelons, when packed or offered for sale, shall be:

1. Fairly well-shaped;
2. Mature but not overripe;
3. Free from mold, decay, insect and beetle damage; and
4. Free from serious damage.

- D.** If a preliminary inspection of honeydew or honeyball melons as prescribed at R3-4-738(A) indicates that further testing for maturity is required, the inspector shall randomly select melons for testing and average the results to determine the percent of soluble solids for each lot:

1. When sampling honeydew or honeyball melons for maturity in lot containers that are not bulk containers, the minimum number of melons to be sampled is as follows:

Containers in Lot	Melons Sampled
Up to 400	7
401 to 600	9
Over 600	Add 3 melons for every additional 500 containers or fraction of 500 additional containers

2. When sampling honeydew or honeyball melons for maturity in bulk containers, seven honeydew or honeyball melons shall be selected at random from the top of the bulk container. The minimum number of bulk containers to be sampled is as follows:

No. of Bulk Containers	Containers Sampled
Less than 10	2
10 to 30	3
31 to 50	4
51 or more	5

- E.** The Department shall not permit more than five percent, by count, of the melons in any one lot for any one defect and not more than 10 percent, by count, to fail the total requirements prescribed in this Section.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).  
Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1).

### **R3-4-718. Nectarine Standards**

#### **A. Definitions.**

1. "Growth cracks" means cracks more than 5/8 inch in length, whether healed or not healed.
2. "Heat injury, sprayburn, or sunburn" means the skin is blistered, cracked, or decidedly flattened or badly discolored.
3. "Scab or bacterial spot" means the aggregate area exceeds that of a circle 3/4 inch in diameter.
4. "Serious damage" includes damage caused by bruises, growth cracks, hail, heat injury, sunburn, sprayburn, scab, bacterial spot, scale, split pit, scars, russetting, other diseases, insects, mechanical injury.
5. "Split pit." When causing an unhealed crack or when affecting the shape to the extent that the fruit is badly misshapen.
6. "Scars." When dark or rough scars in the aggregate area exceed that of a circle 3/4 inch in diameter.
7. "Russetting" means that 10% of the fruit surface is rough or slightly rough.

- B.** Nectarines shall be of one variety, which are mature but not overripe; not badly misshapen; clean; free from decay, broken skins which are not healed, worms and worm holes; and free from serious damage.

- C.** Not more than 5%, by count, of the nectarines in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-719. Okra Standards****A. Definitions.**

“Serious damage” means damage caused by disease, decay, insects, woodiness, stringiness, or any condition which would cause a loss of 10% or more to an individual pod.

- B.** Okra, when being packed or offered for sale, shall be free from serious damage.
- C.** Not more than 10% of the pods in a lot shall fail to meet the requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-720. Dry Onion Standards****A. Definitions.**

1. “Mature” means that the onion is fairly well cured and at least fairly firm.
2. “Serious damage” means damage caused by:
  - a. Insect injury that has penetrated or affected the appearance or the edible portion of the onion;
  - b. Mold and decay;
  - c. Wet or dry sunscald, when affecting 1/3 of the total surface area;
  - d. Seedstems, when more than 1/2 inch in diameter;
  - e. Sprouting, when any visible sprout is more than 1 inch in length;
  - f. Staining, dirt, or other foreign material, when the onions in any lot are affected in appearance of 25% or more of the total surface;
  - g. Mechanical injury, when cuts seriously damage the appearance or edible portion of the onion;
3. “Similar varietal characteristics” means that the onions in any container are similar in color, shape, and character of growth.

- B.** Dry onions shall be of similar varietal characteristics, mature, and free from serious damage.
- C.** Not more than 5%, by weight, of the onions in any lot shall be allowed decay or wet sunscald and not more than 20%, by weight, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-721. Pea Standards****A. Definition.**

“Serious damage” includes damage caused by disease, mold, decay, freezing, dirt, insects, or from mechanical injury.

- B.** Peas, when being packed fresh or sold shall be mature but not over-mature and shall be fairly well filled, fresh, firm, and free from serious damage.
- C.** Not more than 10%, by weight, of any lot shall fail to meet the requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-722. Peach Standards****A. Definitions.**

1. “Badly misshapen” means that the shape of the fruit deviates from the shape characteristics of the variety or is otherwise deformed to the extent that it affects its appearance.
2. “Mature” means that the peach has reached a stage of growth, which will ensure a proper completion of the ripening process.

3. “Serious damage” includes damage caused by cuts which are not healed, worms, worm holes, bruises, dirt, or other foreign material, bacterial spots, scab, scale, growth cracks, hail damage, leaf or limb rubs, split pits, other disease, insects, mechanical injury.

- B.** Peaches shall be of one variety, which are mature but are not soft or overripe, not badly misshapen, and which are free from decay and free from serious damage.
- C.** Not more than 5%, by count, of the peaches in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-723. Pear Standards****A. Definitions.**

1. “Serious damage” includes damage caused by internal breakdown, scald, freezing damage, worm holes, black end, hard end, broken skins, bruises, russetting limb rubs, hail, scars, drought spots, sunburn, sprayburn, stings or other insect damage, disease, mechanical injury.
2. “Seriously misshapen” means that the pear is excessively flattened or elongated for the variety.

- B.** Pears shall be of one variety, which are mature but not over-ripe, clean, not seriously misshapen, free from decay, and free from serious damage.
- C.** Not more than 5%, by count, of the pears in any container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-724. Sweet Pepper Standards****A. Definitions.**

1. “Firm” means that the pepper is not soft, shriveled, limp, or pliable, although it may yield to slight pressure.
2. “Mature green” means that the pepper has reached the stage of development that withstands normal handling and shipping.
3. “Not seriously misshapen” means that the pepper is not badly indented, crooked, constricted, or otherwise badly deformed.
4. “Serious damage” means damage caused by freezing injury, hail, scars, sunburn, disease, insects, mechanical injury, or any one of the following defects or combination of defects, the seriousness of which exceeds the maximum for any one defect:
  - a. Sunscald;
  - b. Any opening or puncture through the fleshy wall of the pepper;
  - c. Scars means evidence of scarring scattered over an aggregate surface area exceeding a circle 1 inch in diameter, or one scar 3/4 inch in diameter on a pepper 2 1/2 inches in length and 2 1/2 inches in diameter;
  - d. Sunburn means discoloration which affects an aggregate area exceeding 25% of the surface of the pepper;
  - e. Bacterial spot means evidence of bacteria over an aggregate area exceeding a circle 1 inch in diameter on a pepper 2 1/2 inches in length and 2 1/2 inches in diameter.



5. "Similar varietal characteristics" means each pepper shall be of the same general type. Thin- and thick-walled types shall not be mixed.
- B. Sweet peppers, when being packed or offered for sale, shall be of the same varietal characteristics which are mature green, firm, not seriously misshapen, free from sunscald and decay, and free from serious damage.
- C. Any lot of peppers which meets all the requirements prescribed in this Section, except those relating to color, shall be designated as "Red" if at least 90% of the peppers show any amount of a shade or red color; or as "Mixed Color" if the peppers fail to meet the requirements of "Green" or "Red."
- D. Not more than 5%, by count, of the peppers in any container or lot shall be allowed for sunscald; not more than 2%, by count, shall be allowed for decay; and not more than 10%, by count, shall fail to meet the total requirements in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-725. Fresh Plum and Prune Standards****A. Definitions:**

1. "Badly misshapen" means that shape of the fruit deviates from the shape characteristics of the variety or is otherwise so malformed or rough that it affects its appearance. Doubles shall be considered badly misshapen.
  2. "Serious damage" includes damage caused by broken skins, heat damage, growth cracks, sunburn split pits, hail marks, drought spots, gum spots, russetting scars, other disease, insects, mechanical injury.
- B. Fresh plums or prunes shall be of one variety which are not badly misshapen, which are clean, mature but not overripe or soft or shriveled, which are free from decay or sunscald, and free from serious damage.
- C. Not more than 5%, by count, of the fruit in any one container or lot shall be allowed for any one defect and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-726. Potato Standards****A. Definitions.**

1. "Badly skinned" means that more than 50% of the skin of the individual potato is missing or feathered.
  2. "Serious damage" means damage caused by dirt or other foreign matter, sunburn, greening, second growth, growth cracks, air cracks, hollow heart, internal discoloration, shriveling, scab, dry rot, rhizoctonia, insect, larvae, worms, other diseases, mechanical injury, or any external defect which cannot be removed without a loss of more than 10% of the total weight of the potato.
  3. "Seriously misshapen" means that the potato is pointed, dumbbell-shaped, or otherwise deformed.
- B. All potatoes when being packed or sold shall conform to the following standards:
1. Potatoes shall be of the same varietal characteristics and shall not be seriously misshapen or frozen;
  2. Unless otherwise specified, the diameter of each potato shall be not less than 1 1/2 inches and not more than an average of 3% of the potatoes in any one container or lot. Not more than 6% of the potatoes in any one container or lot shall fail to meet such specified minimum size requirements, except that potatoes sold or offered for sale as U.S. No. 1 shall have a diameter of not less than 1 7/8 inches, unless otherwise specified on the container thereof;

3. Potatoes shall be free from black heart, late blight, southern bacterial wilt, ringrot, softrot, or wet breakdown;
  4. Potatoes shall be free from serious damage.
- C. Not more than 30% of the potatoes in any one container or lot may be badly skinned.
- D. Not more than a total of 12%, by weight, of the potatoes in any one container or bulk lot shall fail to meet the standards prescribed in this Section; provided that the following percentages shall be allowed for the following defects:
1. Not more than 6% for potatoes having external defects;
  2. Not more than 6% for potatoes which are seriously damaged by hollow heart, internal discoloration, or other internal defects; provided that not more than 3% of the external and internal defects shall be allowed for potatoes which are frozen or affected by southern bacterial wilt, ringrot, or late blight;
  3. Not more than 3% shall be allowed for potatoes affected by soft rot or wet breakdown;

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-727. Romaine Standards****A. Definitions.**

1. "Serious damage" includes damage caused by decay; seedstems; broken, bruised, or discolored leaves; tipburn; wilting; foreign material; freezing; dirt; insects; mechanical injury.
  2. "Well developed" means that the plant shows normal growth and shape.
  3. "Well trimmed" means that the stem is trimmed close to the point of the outer leaves.
- B. Romaine, when being packed or offered for sale, shall consist of plants of the same varietal characteristics which are fresh, well developed, well trimmed, and free from serious damage.
- C. Seedstems shall be considered as serious damage when the length of the attached seedstem is more than 1/2 the overall plant length, or when any portion of the seedstem has been removed.
- D. Not more than 5% of the plants in any one container or lot shall be allowed for decay and not more than 10% shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-728. Spinach Standards****A. Definition.**

- "Serious damage" means damage caused by insects, disease, tip burn, frost injury, or any condition which would cause a loss of 20% or more of the leaves during preparation for use.
- B. Spinach, when being packed or offered for sale, shall be free from serious damage.
- C. Not more than 5% of the spinach in any one lot shall be allowed for decay and not more than 10% shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-729. Strawberry Standards****A. Definitions.**

1. "Mature" means any strawberry which has not less than 2/3 of the surface showing a characteristic reddish color.
  2. "Serious damage" includes damage caused by rain, irrigation, sun, bruising, disease, insects.
- B. Strawberries shall be mature but not overripe and not noticeably undeveloped or deformed; shall have the cap (calyx)

attached, and shall be free from cuts, molds, decay, and serious damage.

- C. Strawberries, when being packed or offered for sale, shall be contained in the dry pint basket containing an interior capacity of approximately 33 6/10 cubic inches.
- D. Not more than 5%, by count, of the berries in any one container or subcontainer shall be allowed for any one cause and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-730. String Bean Standards

- A. Definition.  
“Serious damage” means damage caused by freezing, hail, dirt, disease or insect injury, rust, anthracnose, mold, mildew, decay or from mechanical injury, or any condition to an individual pod which would cause a loss of 10% or more to any one bean.
- B. String beans, when being packed or offered for sale, shall be mature, free-snapping but not overmature, and shall be free from serious damage.
- C. Not more than 10% of the beans in a lot shall fail to meet the requirements prescribed in this Section.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-731. Summer Squash Standards

- A. Definition.  
“Serious damage” includes damage caused by freezing, discoloration, cuts, bruises, scars, dirt or other foreign material, disease, insects, mechanical damage.
- B. Summer squash shall consist of one variety or similar varietal characteristics which are not old and tough but are firm, free from decay and breakdown, and free from serious damage.
- C. Not more than 5%, by weight, of the squash in any container or lot shall be allowed for decay or breakdown and not more than 10%, by weight, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-732. Sweet Potato Standards

- A. Definition.  
“Serious damage” means damage caused by insect injury, bruises, growth cracks, freezing, grass roots, or any condition which would cause a waste of 10%, by weight, to a potato.
- B. Sweet potatoes shall be free from mold, decay, soft and wet rot, and free from serious damage.
- C. When packed in lugs, boxes or sacks, sweet potatoes shall be fairly uniform in size.
- D. Not more than 5%, by weight, of sweet potatoes in a container or bulk lot shall be allowed for decay and not more than 20%, by weight, shall fail to meet the total requirements prescribed in this Section.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-733. Table Grape Standards

- A. Definitions.
  - 1. “Mature” shall be applied when the following conditions exist in each bunch of grapes tested:
    - a. The juice of all varieties contains soluble solids equal to, or in excess of, 18 parts to every part of acid contained in the juice (the acidity of the juice to

be calculated as tartaric acid without water of crystallization);

- b. Perlettes; at least 15% soluble solids;
- c. Black Beauty Seedless; at least 15% soluble solids;
- d. Thompson Seedless and Flame Seedless varieties; at least 16% soluble solids;
- e. Exotic variety; at least 14% soluble solids.
- 2. “Serious damage” means more than 5%, by count, of the berries on any one bunch are affected by one or more of the defects set forth in subsection (A)(3).
- 3. “Serious defects” means:
  - a. “Decay” means any soft breakdown of the flesh or skin of the berry resulting from bacterial or fungus infection. Slight surface development of green mold (cladosporium) shall not be considered decay.
  - b. “Mildew and insect damage” includes the penetration or damage of the flesh of the berry, mold, decay, raisined berries, sunburned or dried berries, water or red berries, mechanical injury.
  - c. “Raisined berries” means berries which are fully cured resembling raisins and which do not contain sufficient juice to drop from the berry under ordinary pressure between the thumb and finger.
  - d. “Red berry” means a condition closely resembling waterberry. Such grapes show a red or brownish red color in addition to the general characteristics of waterberry.
  - e. “Sunburned or dried berries” means grapes which show complete drying out, from any cause, of part or all of any individual berries.
  - f. “Waterberry” means a condition characterized by a watery, soft, or flabby condition of the berries. Such affected berries are low in sugar content, have tender skins, and are very easily crushed.
  - g. “Wet” means that the grapes are wet from moisture due to crushed, leaking, or decayed berries or from rain. Grapes which are moist from dew or other moisture condensation such as that resulting from removing grapes from a refrigerator car or cold storage to a warmer location shall not be considered as wet.

- B. Table grapes shall consist of bunches of grapes which are mature and free from serious damage due to serious defects.
- C. Not more than 10%, by weight, of the bunches in any one container or bulk lot shall fail to meet the requirements prescribed in this Section.
- D. In all varieties, the testing of soluble solids in the juice shall be determined by the hand refractometer.
- E. The maturity of varieties, prescribed in subsection (A)(1), shall be determined by testing the juice of entire bunches after removing the bunches from a standard 22-pound container; or 10%, by weight, of the least mature grapes in appearance from a contiguous area in the container in any other container.
- F. No lot of grapes shall be considered as failing to meet the maturity requirements if the sample of grapes from one container fails to meet the required percent of soluble solids for that variety.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-734. Tomato Standards

- A. Definition.  
“Serious damage” means damage caused by blossom end rot, mosaic, alkali spot, sunscald, bruises, catfaces, blossom end scars, and growth cracks.

- B. Tomatoes shall be mature but not overripe and shall be free from insect injury which has penetrated or materially damaged the flesh, wet or soft rot, blight, freezing injury, and from serious damage.
- C. Tomatoes when being packed or sold shall be virtually uniform in size.
- D. Not more than 5% of tomatoes in any container or lot shall be allowed for any one cause and not more than 10% shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-735. Winter Squash Standards**

- A. Definition.  
“Serious damage” means damage caused by soft rot or wet breakdown, freezing, dirt, diseases, insects, mechanical damage, and also includes:
  1. Scars caused by rodents or other means, which are not well healed or corked over, or which cover more than 25% of the surface of the squash in the aggregate area;
  2. Dry rot which affects an area of more than 2 inches in diameter in the aggregate area on a 10-pound squash or an equivalent amount on a smaller or larger squash.
- B. Winter squash shall be of similar varietal characteristics which are fairly well mature, not broken or cracked, and are free from serious damage.
- C. Not more than 5%, by weight, of a squash in any lot shall be allowed for soft rot or wet breakdown and not more than 10%, by weight, shall fail to meet the total requirements prescribed in this Section.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**R3-4-736. Standards for Unlisted Fresh Fruits and Vegetables, Experimental Product Standards**

- A. The following standards shall apply for those fresh fruit and vegetables for which specific quality standards are not otherwise established in this Article.
- B. At least 90% by weight or by count of all fresh fruit or vegetables packed or offered for sale shall be free from insect injury which has penetrated or damaged the edible portion of the product and shall be free from worms, mold, decay, or other serious defects which damage the appearance or the shipping quality of the commodity as determined by an inspection of a representative sample prescribed in R3-4-738.
- C. All experimental products shall be subject to the standards for unlisted fresh fruit and vegetables prescribed in this Section and the requirements for labeling containers prescribed in R3-4-737.

**Historical Note**

Section R3-4-736 renumbered from R3-7-705 and amended effective January 6, 1994 (Supp. 94-1).

**R3-4-737. Container Labeling for Fruit and Vegetables**

- A. All containers shall bear in plain sight and plain letters on one outside panel the following:
  1. Shipper or customer identification:
    - a. The name of the shipper; and
    - b. The city, state, and zip code of the shipper; or
    - c. The name, address, and logo of the customer; and
    - d. The shipper’s identifying code.
  2. The common or generic name of the commodity in each container; and
  3. The count, measure, or net weight of the commodity contained in each container, except for bulk containers.
- B. A container shall not bear any false or misleading statement.

- C. If a shipper or customer reuses a container bearing the name of a different shipper or customer, the shipper or customer shall remove or obliterate all markings or labels from the container before commercial reuse.
- D. Fruit and vegetables for processing.
  1. If a pallet or container is clearly marked “FOR PROCESSING ONLY,” the information in subsection (A) is not required if the pallet or container is used to transport fruit or vegetables to a processing plant.
  2. Fruit or vegetables transported to a processing plant may be packed on a pallet or in a container bearing a label for a commodity other than the commodity within the container.

**Historical Note**

Section R3-4-737 renumbered from R3-7-706 and amended effective January 6, 1994 (Supp. 94-1).  
Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 143, effective December 8, 1999 (Supp. 99-4).

**R3-4-738. Inspection and Representative Sampling for Fruit and Vegetables**

- A. An inspector shall conduct a preliminary inspection of each commodity which includes a visual and physical inspection of specimens of the commodity. When determining compliance of a field packing operation, the inspector shall select specimens from widely separated areas of the packing operation. When determining compliance in a packing shed, warehouse, fruit stand, retail store, or other business which sells fruit or vegetables, containers shall be selected at random from widely separated parts of the lot. If one-half of the containers or specimens in the containers of the lot or field packing operation comply with the requirements of this Article and the other half of the containers or specimens in the containers of the lot or field packing operation do not, an equal number of containers or specimens in the containers shall be examined from each half.
- B. If, after the preliminary inspection, the inspector determines that the quality of the product meets or exceeds the requirements of this Article, the inspector need not complete a comprehensive inspection. If, after the preliminary inspection, there is a failure to comply with the requirements of this Article, the inspector shall conduct a comprehensive inspection.
- C. For a comprehensive inspection of a field packing operation, all specimens in each container of the official sample shall be examined by an inspector. For a comprehensive inspection of a wholesale warehouse, fruit stand, retail store, or any other business dealing with the sale of fruit or vegetables, an inspector may examine all specimens in each container of the official sample. The official sample of the lot shall consist of an inspection of no less than two containers for the first 100 containers of the lot and one container for every 100 containers thereafter. For example:

No. of Containers	Containers Sampled
2-100	2
101-200	3
201-300	4
301-400	5
401-500	6

- D. In a comprehensive inspection of a wholesale warehouse, fruit stand, retail store, or any other business dealing with the sale of fruit or vegetables, an inspector need only examine a portion of the specimens in each container of the official sample. The official sample of the lot shall consist of an inspection of no less than the following:

No. of Containers	Containers Sampled
-------------------	--------------------

less than 10	2
10-30	3
31-50	4
51-100	5
101-200	6
201-300	8
301-500	10

- E.** If only a portion of the specimens in each container of the official sample is examined during a comprehensive inspection in lots in excess of 500 containers, the official sample shall consist of the number of containers equal to at least 1/2 the square root of the total number of containers in the lot. For example:

No. of Containers	Containers Sampled
501-600	12
601-700	13
701-800	14
801-900	15
901-1000	16

- F.** Except for apples and head lettuce, individual containers in any lot may contain up to double the amount of serious damage and other requirements prescribed for that commodity as long as the percentage of all requirements in the entire lot averages within the percent allowable as determined by inspection of a representative sample.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-739. Reconditioning for Fruit and Vegetables

- A.** Any lot or part of a lot in a grower and shipper packing facility which is found to be in violation of Article 7 of these rules shall be reconditioned within 72 hours. If the lot or part of the lot is not brought into compliance within the established time limit, an inspector shall proceed with the provisions prescribed in A.R.S. § 3-486.
- B.** Any lot or part of a lot in a wholesale warehouse, fruit stand, retail store, or any other business dealing in the sale of fruit and vegetables which is found to be in violation of Article 7 of these rules shall be reconditioned within 48 hours. If the lot or part of the lot is not brought into compliance within the established time limit, an inspector shall proceed with the provisions, as prescribed in A.R.S. § 3-486.
- C.** The supervisor or the supervisor's designee may grant a time extension for reconditioning the lot or part of the lot if the owner or holder of the lot or part of the lot which fails to comply with this Article requests an extension in writing with a specific date and time the lot or part of the lot will be reconditioned. The written request for the time extension for reconditioning may be delivered to the supervisor or the supervisor's designee in person, by mail or by facsimile. If the lot or part of the lot is not brought into compliance with this Article within the established time limit, an inspector shall proceed with the provisions prescribed in A.R.S. § 3-486.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-740. Experimental Pack and Product Permits for Fruit and Vegetables

- A.** An applicant for a permit for the use of an "experimental pack" or "experimental product," under A.R.S. § 3-487(B)(3), shall provide the following information on a form furnished by the Department:
1. The applicant's name, company name, address, and telephone number;
  2. The name and description of the product packed in the container;

3. The description of the arrangement of the product packed in the container; and
4. The period for use of the experimental pack or product.

- B.** The shipper or packer shall make the experimental product conform to the standards for unlisted fresh fruit and vegetables prescribed in R3-4-736.
- C.** Upon completion of permit requirements by the applicant, the supervisor shall grant a permit that is valid for one year from the date of issuance.
- D.** An applicant may request renewal of an experimental pack or product permit. The Department shall not grant a renewal permit for the same experimental pack or product for more than three consecutive years, unless the rulemaking process prescribed under A.R.S. § 3-497, to standardize the experimental pack or product is initiated.

#### Historical Note

Section R3-4-740 renumbered from R3-4-708 and amended effective January 6, 1994 (Supp. 94-1).

Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4).

#### R3-4-741. Inspection Fee

- A.** Pursuant to A.R.S. § 3-489, any unlicensed person requesting inspection of citrus, fruit, vegetables, or nuts shall be charged travel expenses and an hourly fee of \$30.00, as prescribed in A.R.S. § 38-621 et seq.
- B.** All fees are non-refundable and shall be paid to the Citrus, Fruit and Vegetable Revolving Fund upon completion of the inspection, as prescribed in A.R.S. § 3-489(B).

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-742. Recordkeeping and Reporting Requirements for Fruit and Vegetable Commission Merchants

- A.** Every commission merchant shall keep a correct record of each consignment of farm products received for sale, showing:
1. The name and address of the consignor;
  2. The date of the consignment received;
  3. The condition and quantity of produce upon arrival;
  4. The date of the sale;
  5. The price for which sold;
  6. An itemized statement of charges to be paid by the consignor;
  7. The names and addresses of purchasers if the commission merchant has a financial interest in the business of the purchasers, or if the purchasers have a financial interest in the business of the commission merchant, either directly or indirectly, as holder of the other's corporate stock, as partner, as lender or borrower of money to or from the other, or otherwise;
  8. The lot number or other identifying mark of each consignment, which shall appear on all records necessary to show what the produce actually sold for;
  9. All claims filed by the commission merchant against any person for overcharges or for damages resulting from the injury of the person.
- B.** The commission merchant shall retain the original or a copy of records covering each sale or transaction with respect to farm products for a period of one year from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the consignor or the authorized representative of either. The burden of proof shall be upon the commission merchant to prove the correctness of the commission merchant's accounting of any transaction which may be questioned.
- C.** Unless otherwise agreed to in writing, remittance in full of the amount realized from any sale, including collections, over-

charges, and damages, less the agreed commission and other charges, accompanied by a complete statement of the transaction, shall be made to the consignor within 10 days after receipt of the money by the commission merchant.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-743. Recordkeeping and Reporting Requirements for Fruit and Vegetable Shippers

- A. Every shipper shall keep a correct record of each shipment of each assessed commodity shipped, showing:
  1. The name and address of each producer;
  2. The shipment totals, by producer.
- B. The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

## ARTICLE 8. CITRUS FRUIT STANDARDIZATION

### R3-4-801. Orange and Grapefruit Standards

- A. Oranges are mature if, at the time of picking and at all times thereafter, the following conditions occur:
  1. The juice contains soluble solids, as determined by a Brix Scale Hydrometer, of not less than eight parts to every part of acid contained in the juice, except in the case of Bloods, tangerines, tangelos, and mandarins. The acidity of the juice shall be calculated as citric acid without water or crystallization.
  2. Not less than 90% of the oranges, by count, have attained a minimum characteristic yellow or orange color on at least 2/3 of the fruit surface, as indicated by Color Plate Number 20-L3 in A. Maerz and M. Rea Paul Dictionary of Color, first edition, published 1930, except in the case of Valencia oranges that have turned greenish after having reached the soluble solids requirement. This color standard is incorporated herein by reference and does not include any later amendments or editions of the incorporated matter and is on file with the Office of the Secretary of State and may also be examined in the Fruit and Vegetable Standardization Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250.
- B. Navels, at the time of sale, shall have not less than 90%, by count, a minimum characteristic yellow or orange color on at least 2/3 of the fruit surface.
- C. Grapefruit are mature if, at the time of picking and at all times thereafter, the following conditions occur:
  1. The juice contains soluble solids, as determined by a Brix Scale Hydrometer, of not less than six parts to every part of acid contained in the juice. The acidity of the juice shall be calculated as citric acid without water or crystallization.
  2. Not less than 90% of the grapefruit, by count, have attained a minimum characteristic yellow or grapefruit color on at least 2/3 of the fruit surface as indicated by Color Plate Number 19-L3 in A. Maerz and M. Rea Paul Dictionary of Color, first edition, published 1930. This color standard is incorporated

herein by reference and does not include any later amendments or editions of the incorporated matter and is on file with the Office of the Secretary of State and may also be examined in the Fruit and Vegetable Standardization Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250.

#### Historical Note

Section R3-4-801 renumbered from R3-7-201 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-802. Lemon Standards

Lemons are mature when they have a juice content of 30% or more by volume, except that lemons packed for export to foreign markets other than Canada shall not be required to meet this standard.

#### Historical Note

Former Rule 1. Section R3-4-802 renumbered from R3-7-202 (Supp. 91-4). Section R3-4-802 repealed, new Section R3-4-802 renumbered from R3-4-806 and heading amended effective January 6, 1994 (Supp. 94-1).

### R3-4-803. Lime Standards

Limes are mature and free from serious damage, except freezing or drying, if, at the time of picking and all times thereafter, the following conditions occur:

1. Damage is serious if 20% or more of the pulp shows staining, drying, desiccation, or a mushy condition.
2. Damage by freezing or drying is very serious if 40% or more of the pulp shows evidence of drying, desiccation, or a mushy condition.
3. Not more than 10%, by count, of the limes in any container or bulk lot may fail to meet the serious damage requirements prescribed in this Section. Not more than 5% shall be allowed for any one cause.
4. Not more than 15%, by count, of the limes in any container or bulk lot may fail to meet the serious damage requirements because of freezing or drying. Not more than 5% of this tolerance shall be allowed for very serious freezing or drying damage. Evidence of freezing or drying damage shall be determined by making as many cuts of each individual lime as are necessary.

#### Historical Note

Former Rule 2. Amended effective January 10, 1977 (Supp. 77-1). Amended effective November 3, 1983 (Supp. 83-6). Section R3-4-803 renumbered from R3-7-203 (Supp. 91-4). Former Section R3-4-803 renumbered to R3-4-809, new Section R3-4-803 adopted effective January 6, 1994 (Supp. 94-1).

### R3-4-804. Tangerine, Tangelo, and Mandarin Standards

- A. Definitions.
  1. "Diameter" means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit.
  2. "Tangerines, tangelos, or mandarins" means all varieties and hybrids of the mandarin group *citrus reticulata*.
  3. "Serious damage" means damage caused by freezing or drying due to any condition if 20% or more of the pulp or edible portion of the fruit shows evidence of drying, desiccation, or a mushy condition. Evidence of damage shall be determined by as many cuts of each individual fruit as are necessary.
- B. Tangerines, tangelos, and mandarins shall be:

1. Well colored; and
  2. Free from serious damage by freezing or drying due to any cause; and
  3. Free from decay.
- C.** Tangerines, tangelos, or mandarins are mature if, at the time of picking and at all times thereafter, not less than 90%, by count, of the tangerine type fruit have attained a minimum characteristic yellow or light green color on at least 2/3 of the fruit surface, as indicated by Color Plate Number 19-L3 in A. Maerz and M. Rea Paul Dictionary of Color, first edition, published 1930. This color standard is incorporated herein by reference and does not include any later amendments or editions of the incorporated matter and is on file with the Office of the Secretary of State and may also be examined in the Fruit and Vegetable Standardization Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250.
- D.** Tangerines, tangelos, or mandarins shall meet the requirements prescribed in this Section if, at the time of sale, are well colored if 90%, by count, of the fruit in any lot show the yellow, orange, or red color of 75% or more of the surface of the fruit, and the fruit is free from serious damage.
- E.** Not more than 10%, by count, of the tangerines, tangelos, or mandarins in any one container or bulk lot may fail to meet the requirements, as prescribed in this Section, because of damage by freezing or drying due to any cause.
- F.** Not more than 5%, by count, of the tangerines, tangelos or mandarins in any one container or bulk lot may fail to meet the requirements prescribed in this Section because of serious decay.

#### Historical Note

Former Rule 3. Section R3-4-804 renumbered from R3-7-204 (Supp. 91-4). Former Section R3-4-804 renumbered to R3-4-807, new Section R3-4-804 adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-805. Serious Defects in Citrus Fruit

- A.** A defect is serious in citrus fruit, other than grapefruit, if the following conditions occur:
1. Any part of the fruit is affected with decay;
  2. Damage by freezing or drying, if 20% or more of the pulp or edible portion of the fruit shows evidence of drying or a mushy condition or, in a lemon, of staining (except membranous stain). Evidence of damage shall be determined by making as many cuts on each fruit as may be necessary;
  3. Injury, from any cause, if the skin (rind) is broken and the injury is not healed;
  4. Scars, including those caused by insects, if they are dark, rough, or deep, and if an aggregate area of 25% or more of the fruit surface is affected;
  5. Scale, if 50% or more of the fruit surface shows scale infestation in excess of 50 scales per square inch;
  6. Dirt, smudge stain, sooty mold, rot residues, or other foreign material, if an aggregate area of 25% or more of the fruit surface is affected;
  7. Staining, if 50% or more of the fruit surface is affected with a pronounced discoloration;
  8. Greenish or brownish rind oil spots (oleocellosis), if an aggregate area of 25% or more of the fruit surface is affected;
  9. Spotting or pitting, if the spots or pits are sunken and an aggregate area of 10% or more of the fruit surface is affected;
  10. Sunburn in oranges, if it causes flattening of the fruit, or drying or discoloration of the skin (rind), or if it affects more than 1/3 of the fruit surface;
  11. Sunburn in lemons, if 25% or more of the pulp or edible portion of the fruit shows evidence of drying, staining (except membranous stain), or a mushy condition. Evidence of damage shall be determined by making as many cuts on each lemon as may be necessary;
  12. Aging, if 1/3 or more of the fruit surface is dried and hard;
  13. Roughness in oranges, if 90% or more of the fruit surface is rough, coarse, or lumpy;
  14. Softness in oranges, if the fruit is flabby, or if the orange is spongy and puffy over 90% or more of the fruit surface;
  15. Water spot in oranges, if the affected skin (rind) is soft or not healed;
  16. Protruding or enlarged navel end in oranges, if the navel end protrudes beyond the general contour of the orange to such extent, or the navel opening is so wide considering the size of the orange, or the navel growth is so folded or ridged, that it detracts from the appearance of the orange;
  17. Damage to a lemon by internal decline, from any cause, if 20% or more of the pulp or edible portion shows evidence of drying, staining (except membranous stain), or a mushy condition, or if the core shows gumming for its entire length. Evidence of damage shall be determined by making as many cuts on each lemon as may be necessary;
  18. Peteca in lemons, if the spots or pits are sunken and an aggregate area of 10% or more of the fruit surface is affected;
  19. Deformities in lemons, if 50% or more of the individual fruit is excessively misshapen, ridgy, or lumpy; or
  20. Red blotch in lemons, if an aggregate area of 10% or more of the fruit surface is affected.
- B.** A defect is serious in grapefruit if the following conditions for serious damage, as referenced in the United States Standards for Grades of Grapefruit (California and Arizona), effective December 27, 1999, occur:
1. Dryness or mushy condition, if it affects all segments for more than half of an inch at the stem end, or the equivalent of this amount by volume when it occurs in other portions of the fruit;
  2. Sprayburn, if it changes the color to such an extent that the appearance of the fruit is seriously injured, or if it causes scarring that affects an aggregate area of more than 10% of the fruit surface;
  3. Fumigation injury, if it causes small, thinly scattered spots over more than half of the fruit surface, or solid scarring or depressions that affect an aggregate area of more than 5% of the fruit surface;
  4. Exanthema that occurs as small, thinly scattered spots over more than half of the fruit surface, or solid scarring that is not cracked, that affects an aggregate area of more than 5% of the fruit surface;
  5. Scars that are very deep, or scars that are very rough or very hard if an aggregate area of more than one inch in diameter is affected;
  6. Scars that are dark, rough, or deep, if an aggregate area of more than 5% of the fruit surface is affected;
  7. Scars that are fairly light in color, slightly rough, or of slight depth, if an aggregate area of more than 15% of the fruit surface is affected;
  8. Scars that are light colored, fairly smooth, with no depth, if an aggregate area of more than 25% of the fruit surface is affected;

9. Green spots, oil spots (oleocellosis), or other similar injuries that are soft, or that affect an aggregate area of more than 10% of the fruit surface;
10. Scale, if California red or purple scale is concentrated in a ring or blotch, or if it is more than thinly scattered over the fruit surface, or if the scale affects the appearance of the fruit to a greater extent;
11. Sunburn, if it causes flattening of the fruit, or drying or dark discoloration of the skin (rind), or if it affects more than 1/3 of the fruit surface;
12. Skin breakdown, if it exceeds a circle 5/8 of an inch in diameter;
13. Bruising, if segment walls are collapsed, or the albedo and juice sacs are ruptured;
14. Any part of the fruit is affected with decay;
15. Injury, from any cause, if the skin (rind) is broken and the injury is not healed;
16. Dirt, smudge stain, sooty mold, rot residues, or other foreign material, if an aggregate area of 25% or more of the fruit surface is affected; or
17. Any injury, by any means, if it seriously affects the appearance, or the edible or shipping quality of the fruit.

#### Historical Note

Former Rule 4. Section R3-4-805 renumbered from R3-7-205 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 7 A.A.R. 5342, effective November 8, 2001 (Supp. 01-4).

#### R3-4-806. Tolerance for Serious Defects

- A. Except as to the requirements relating to maturity and freezing or drying, as set forth in this Article, the following shall apply:
  1. Not more than 10%, by count, of the oranges or grapefruit in any one container or bulk lot may be below the serious defect requirements, as prescribed in R3-4-805, and not more than 5% shall be allowed for any one cause.
  2. Not more than 10%, by count, of the oranges or grapefruit in any one container or bulk lot may be seriously damaged by freezing or drying from any cause as shown by representative samples as set forth in R3-4-812.
  3. When serious damage by freezing or drying from any cause is present, the combined tolerance for all defects shall not exceed 15%.
- B. Except as to the requirements relating to freezing as set forth in R3-4-807, and internal decline, sunburn, or drying as set forth in R3-4-805, the following shall apply:
  1. Not more than 10%, by count, of the lemons in any one container or bulk lot may be below the maturity requirements as set forth in R3-4-802 and the serious defect requirements as set forth in R3-4-805, and not more than 5% shall be allowed for any one cause.
  2. Not more than 10%, by count, of the lemons in any one container or bulk lot may be seriously damaged by freezing, internal decline, sunburn, or drying from any cause as shown by representative samples as set forth in R3-4-812.
  3. When serious damage by freezing, internal decline, sunburn, or drying from any cause is present, the combined tolerance of all defects shall not exceed 10%.

#### Historical Note

Former Rule 5. Section R3-4-806 renumbered from R3-7-206 (Supp. 91-4). Former Section R3-4-806 renumbered to R3-4-802, new Section R3-4-806 adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-807. Freezing Damage

Freezing damage is serious when:

1. Surface membranes show a water-soaked appearance or evidence of previous water soaking; or
2. The presence of crystals or crystalline deposits on the two surface membranes on each side of the two or more segments, as shown upon separation of the segments from one another. The section shall not be less than one inch or more than 1 1/2 inches in thickness of the central portion of the fruit obtained by cutting off a portion of each end. The evidence of freezing injury shall show the entire length, but not necessarily the entire area of the surface membrane.

#### Historical Note

Former Rule 6. Section R3-4-807 renumbered from R3-7-207 (Supp. 91-4). Section repealed, new Section R3-4-807 renumbered from R3-4-804 and amended effective January 6, 1994 (Supp. 94-1).

#### R3-4-808. Standards for Unlisted Citrus Fruit, Experimental Product Standards

- A. The following standards shall apply for that citrus fruit for which specific quality standards are not otherwise established in this Article.
- B. At least 90% by weight of all citrus fruit packed or offered for sale shall be free from insect injury which has penetrated or damaged the edible portion of the product and shall be free from worms, mold, decay, or other serious defects which damage the appearance or the shipping quality of the commodity as determined by an inspection of a representative sample prescribed in R3-4-812.
- C. All experimental products shall be subject to the standards for unlisted citrus fruit prescribed in this Section and the requirements for labeling containers prescribed in R3-4-811.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-809. Bulk Sale of Citrus Fruit; Non-licensed Purchaser

If a non-licensed person purchases citrus fruit in bulk from a licensed citrus dealer for retail sale to the consumer, the non-licensed person shall possess a receipt or bill of lading for that lot. The licensed citrus fruit dealer shall ensure that the citrus fruit meets the minimum quality requirements of each commodity and the lot does not exceed 7,000 pounds.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3).

#### R3-4-810. Packaged Count and Average Diameter

- A. Oranges, grapefruit, and lemons, when packed or placed loose without packing in containers, shall be marked, by count, on the container and shall be one of the numbers tabulated in Packing Chart 1, Column A. The average diameter marked on the container shall be the corresponding number tabulated in Packing Chart 1, Column B. The average diameter, in inches, of the oranges, grapefruit, or lemons in the container as determined by inspection of a representative sample shall not be less than the corresponding measurements tabulated in Packing Chart 1, Column B for each fruit.
  1. Oranges, grapefruit, and lemons, when placed loose without packing in containers, shall be placed in the container so compactly that they will not readily move in the container. The container shall be level full of fruit and the

## Department of Agriculture – Plant Services Division

- count in the container shall be equal to the count marked with a permissible count not exceeding eight percent.
2. The count of oranges, grapefruit, and lemons, when placed in the container shall be equal to or no more than five percent over the count marked on the container.
  3. Oranges, grapefruit, and lemons may be packed in bulk containers. A bulk container shall contain no more than one size designation.
- B.** Lime containers shall be marked by size and shall be one of the numbers tabulated in Packing Chart 1, Column B. The average diameter, in inches, of the limes in the container, as determined by inspection of a representative sample, shall not be less than the corresponding measurements tabulated in Packing Chart 1, Column A. Each container shall be loosely packed and level full of limes.

**PACKING CHART 1**

ORANGES		GRAPEFRUIT		LEMONS		LIMES	
Column A	Column B	Column A	Column B	Column A	Column B	Column A	Column B
Count	Av. Dia.	Count	Av. Dia.	Count	Av. Dia.	Range	Size
24	4.370	9	6.200	63	2.925	2-5/16" to 2-5/8"	110
32	3.970	12	5.640	75	2.775	2-5/32" to 2-5/16"	150
36	3.820	14	5.350	95	2.570	2-1/16" to 2-5/32"	175
40	3.680	16	5.120	115	2.410	1-29/32" to 2-1/16"	200
48	3.470	18	4.920	140	2.240	1-25/32" to 1-29/32"	250
56	3.300	23	4.540	165	2.130	1-21/32" to 1-25/32"	275
72	3.040	27	4.270	200	2.010	1-9/16" to 1-21/32"	300
88	2.840	32	4.030	235	1.880		
113	2.600	36	3.880	285	1.770		
138	2.420	40	3.740	319	1.685		
163	2.290	48	3.530	343	1.640		
180	2.220	56	3.350				
210	2.070	64	3.170				
245	1.980	80	2.900				
270	1.920	88	2.840				

- C.** The diameter, in inches, of tangerines, tangelos, or mandarins in containers shall be marked with one of the size designations tabulated in Column A of Packing Chart 2 and shall be between the measurements tabulated in corresponding lines of Column B and Column C; provided that the diameter, in inches, of not more than 10 percent, by count, of the fruit in the container measures less than the corresponding measurement in Column B, and not more than the corresponding measurement in Column C.

**PACKING CHART 2**

COLUMN A	COLUMN B	COLUMN C
OMG	4.25+	
Ultra Colossal	3.75	4.25
Super Colossal	3.25	3.75
Colossal	3.00	3.25
Mammoth	2.75	3.00
Jumbo	2.50	2.75
Large	2.25	2.50
Medium	2.00	2.25
Small	1.75	2.00

- D.** Minneola tangelos may be packed, by count, using Packing Chart 2, or Packing Chart 3.



## PACKING CHART 3

	COUNT	AVERAGE DIAMETER	PACK PATTERN	ROWS	LAYERS
OMG	36	4.25	4x4	3	3
OMG	40	4.00	3x2	4	4
Super Ultra Colossal	48	3.75	3x3	4	4
Super Ultra Colossal	48	3.75	4x4	3	4
Ultra Colossal	56	3.50	4x3	4	4
Super Colossal	64	3.315	4x4	4	4
Colossal	80	3.125	5x5	4	4
Mammoth	100	2.875	4x4	5	5
Jumbo	125	2.625	5x5	5	5
Large	150	2.375	6x6	5	5
Medium	180	2.125	5x5	6	6
Small	210	1.875	6x6	6	6

- E. If a bulk container of tangerines, tangelos, or mandarins is marked with the words “irregular sizes,” the tangerines, tangelos, or mandarins in the bulk container are exempt from the size requirements in Packing Chart 2 and Packing Chart 3.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3).

**R3-4-811. Container Labeling for Citrus Fruit**

- A. All containers shall bear in plain sight and plain letters on one outside panel the following:
1. Shipper or customer identification:
    - a. The name of the shipper; and
    - b. The city, state, and zip code of the shipper; or
    - c. The name, address, and logo of the customer; and
    - d. The shipper's identifying code.
  2. The common or generic name of the commodity in each container; and
  3. The count, measure, or net weight of the commodity contained in each container, except for bulk containers.
- B. If a shipper or customer reuses a container bearing the name of a different shipper or customer, the shipper or customer shall remove or obliterate all markings or labels from the container before commercial reuse.
- C. Citrus fruit for processing.
1. If a pallet or container is clearly marked “FOR PROCESSING ONLY,” the information in subsection (A) is not required if the pallet or container is used to transport fruit or vegetables to a processing plant.
  2. Fruit or vegetables transported to a processing plant may be packed on a pallet or in a container bearing a label for a commodity other than the commodity within the container.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

Amended by final rulemaking at 6 A.A.R. 143, effective December 8, 1999 (Supp. 99-4).

**R3-4-812. Inspections and Representative Sampling for Citrus Fruit**

- A. An inspector shall conduct a preliminary inspection of each commodity which includes a visual and physical inspection of

specimens of the commodity. When determining compliance of a field packing operation, the inspector shall select specimens from widely separated areas of the packing operation. When determining compliance in a packing shed, warehouse, fruit stand, retail store, or other business which sells citrus fruit, containers shall be selected at random from widely separated parts of the lot. If one-half of the containers or specimens in the containers of the lot or field packing operation comply with the requirements of this Article and the other half of the containers or specimens in the containers of the lot or field packing operation do not, an equal number of containers or specimens in the containers shall be examined from each half.

- B. If, after the preliminary inspection, the inspector determines that the quality of the product clearly meets or exceeds the requirements of this Article, the inspector need not complete a comprehensive inspection. If, after the preliminary inspection, the inspector suspects there may be a failure to comply with the requirements of this Article, the inspector shall complete the procedures for a comprehensive inspection.
- C. For a comprehensive inspection of a field or shed packing operation, all specimens in each container of the official sample shall be examined by an inspector. For a comprehensive inspection of a wholesale warehouse, fruit stand, retail store, or any other business dealing with the sale of citrus fruit, an inspector may examine all specimens in each container of the official sample. The official sample of the lot shall consist of an inspection of no less than two containers for the first 100 containers of the lot and one container for every 100 containers thereafter. For example:

No. of Containers	Containers Sampled
2-100	2
101-200	3
201-300	4
301-400	5
401-500	6

- D. In a comprehensive inspection of a wholesale warehouse, fruit stand, retail store, or any other business dealing with the sale of citrus fruit, an inspector need only examine a portion of the specimens in each container of the official sample. The official

sample of the lot shall consist of an inspection of no less than the following:

No. of Containers	Containers Sampled
less than 10	2
10-30	3
31-50	4
51-100	5
101-200	6
201-300	8
301-500	10

- E.** If only a portion of the specimens in each container of the official sample is examined during a comprehensive inspection in lots in excess of 500 containers, the official sample shall consist of the number of containers equal to at least 1/2 the square root of the total number of containers in the lot. For example:

No. of Containers	Containers Sampled
501-600	12
601-700	13
701-800	14
801-900	15
901-1000	16

- F.** Individual containers in any lot may contain up to double the amount of serious damage and other requirements prescribed for that commodity as long as the percentage of all requirements in the entire lot averages within the percent allowable as determined by inspection of a representative sample.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-813. Reconditioning for Citrus Fruit

- A.** Any lot or part of a lot in a grower and shipper packing facility which is found to be in violation of Article 8 of these rules shall be reconditioned within 72 hours, pursuant to A.R.S. § 3-445(B)(5). If the lot or part of a lot is not brought into compliance within the established time limit, an inspector shall proceed with the provisions as prescribed in A.R.S. § 3-444.
- B.** Any lot or part of a lot in a wholesale warehouse, fruit stand, retail store, or any other business dealing in the sale of fruit and vegetables which is found to be in violation of Article 8 of these rules shall be reconditioned within 48 hours, pursuant to A.R.S. § 3-445(B)(5). If the lot or part of the lot is not brought into compliance within the established time limit, an inspector shall proceed with the provisions, as prescribed in A.R.S. § 3-444.
- C.** Time-limit extensions shall be granted provided that the holder of the product held in violation requests a specific deadline, by facsimile or by letter, to the office of the supervisor. A lot or part of a lot not reconditioned by the requested extension time shall be dealt with according to the provisions, as prescribed in A.R.S. § 3-444.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-814. Experimental Pack and Product Permits for Citrus Fruit

- A.** An applicant for a permit for the use of "experimental packs" or "experimental products" under A.R.S. § 3-445(B)(3), shall provide the following information on a form furnished by the Department:
1. The name, company name, address, and telephone number of the applicant;
  2. The name and description of the product packed in the container;
  3. The description of the arrangement of the product packed in the container; and
  4. The period for use of the experimental pack or product.

- B.** All experimental products shall conform to the standards prescribed in this Article.
- C.** Upon completion of permit requirements, the supervisor shall grant a permit that is valid for one year from the date of issuance.
- D.** An applicant may request renewal of an experimental pack or product permit. The Department shall not grant a renewal permit for the same experimental pack or product for more than three consecutive years, unless the rulemaking process, prescribed under A.R.S. § 3-446, to standardize the experimental pack or product is initiated.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3).

#### R3-4-815. Recordkeeping and Reporting Requirements for Citrus Fruit Commission Merchants

- A.** Every commission merchant shall keep a correct record of each consignment of farm products received for sale showing:
1. The name and address of the consignor;
  2. The date of the consignment received;
  3. The condition and quantity of produce upon arrival;
  4. The date of the sale;
  5. The price for which sold;
  6. An itemized statement of charges to be paid by the consignor;
  7. The names and addresses of purchasers if the commission merchant has a financial interest in the business of the purchasers, or if the purchasers have a financial interest in the business of the commission merchant, either directly or indirectly, as holder of the other's corporate stock, as partner, as lender, or borrower of money to or from the other, or otherwise;
  8. The lot number or other identifying mark of each consignment;
  9. All claims filed by the commission merchant against any person for overcharges or for damages resulting from the injury of the person.
- B.** The commission merchant shall retain the original or a copy of records covering each sale or transaction with respect to farm products for a period of one year from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the consignor, or the authorized representative of either. The burden of proof shall be upon the commission merchant to prove the correctness of the commission merchant's accounting of any transaction which may be questioned.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

#### R3-4-816. Recordkeeping and Reporting Requirements for Citrus Fruit Shippers

- A.** Every shipper shall keep a correct record of each shipment of each assessed citrus commodity shipped, showing:
1. The name and address of the producer;
  2. The shipment totals, by producer.
- B.** The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed citrus commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

#### Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

**ARTICLE 9. BIOTECHNOLOGY****R3-4-901. Genetically Engineered Organisms and Products****A. Definitions.** In addition to the definitions provided in A.R.S. § 3-101, the following shall apply:

1. “Associate Director” means the Associate Director of the Plant Services Division of the Arizona Department of Agriculture.
2. “Genetically engineered” means the genetic modification of organisms by recombinant DNA techniques, including genetic combinations resulting in novel organisms or genetic combinations that would not naturally occur.
3. “Organisms” means any active, infective, or dormant stage or life form of any entity characterized as living, including vertebrate and invertebrate animals, plants, bacteria, fungi, mycoplasmas, mycoplasma-like organisms, as well as entities such as viroid, viruses, or any entity characterized as living related to the foregoing.
4. “Permit” means an application which has been approved by USDA and the Department.
5. “Permit application” means an application filed with USDA, which may be supplemented with requirements from the Department, for the introduction of genetically engineered organisms and products, as provided by 7 CFR 340, revised June 16, 1987, pages 22908 through 22915. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
6. “Product” means plant reproductive parts including pollen, seeds, and fruit, spores, or eggs.
7. “USDA” means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (USDA, APHIS, PPQ).

**B. Permit applications.** A genetically engineered organism or product shall not be introduced into Arizona, sold, offered for sale, or distributed for release into Arizona’s environment unless a permit issued pursuant to the application has been issued by USDA, or the Department has been notified by the USDA that the genetically engineered organisms or product is eligible under the notification procedure, as prescribed by 7 CFR 340.3, revised April 1993, or it has been determined by the USDA to be of nonregulated status, as prescribed by 7 CFR 340.6, revised April 1993. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.

1. Applicants for the release or use of genetically engineered organisms or products shall follow all permit application procedures required by USDA.
2. In addition to USDA’s requirements, permit applications shall demonstrate to the Department that:
  - a. Genetically engineered organisms or products shall be handled in such a manner so that no genetically engineered organism or product accidentally escapes into Arizona’s environment.
  - b. All permit applicants shall comply with Arizona quarantine rules regulating the plants, pests, or organisms being introduced into Arizona.
3. The Department may, if it deems necessary to protect agriculture, public health, or the environment from potential adverse effects from the introduction of a specific genetically engineered organism or product:
  - a. Place restrictions on the number and location of organisms or products released, method of release, training of persons involved with the release of organisms or products, disposal of organisms or products, and other conditions of use;
  - b. Require measures to limit dispersal of released organisms or spread of inserted genes or gene products;
  - c. Require monitoring of the abundance and dispersal of the released organism or inserted genes or gene products;
  - d. Request the USDA to deny, suspend, modify, or revoke the permit for failure to comply with this rule.
  - e. Request the USDA to suspend the permit if it is determined that an adverse effect is occurring or is likely to occur because of a release authorized by such permit.
4. To the extent possible, the Department shall accept for review and base its decision on the data submitted with the federal application. However, the Department may request additional information from the applicant to assess the risks to animals and plants, including risks of vector transmissions of genetically engineered organisms or products.
5. The Associate Director shall review the application recommendations with the Director who shall, within the time period prescribed on each USDA application, approve, conditionally approve, or deny the permit.
6. The Director shall return the completed application with the resolution to USDA for final action.

**Historical Note**

Adopted effective November 22, 1993 (Supp. 93-4).

## Department of Agriculture - Office of Commodity Development and Promotion

**TITLE 3. AGRICULTURE****CHAPTER 6. DEPARTMENT OF AGRICULTURE****OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION**

*Title 3, Chapter 6, consisting of Section R3-6-101, adopted by final rulemaking at 6 A.A.R. 45, effective December 8, 1999 (Supp. 99-4).*

*Former Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109, renumbered to Title 3, Chapter 2, Article 9, Sections R3-2-901 through R3-2-909 (Supp. 91-4).*

**ARTICLE 1. MARKETING**

*Article 1, consisting of Section R3-6-101, adopted by final rulemaking at 6 A.A.R. 45, effective December 8, 1999 (Supp. 99-4).*

## Section

- R3-6-101. Certificate of Free Sale  
R3-6-102. Phytosanitary Certification

**ARTICLE 2. JOINT-VENTURES**

*Article 2, consisting of Sections R3-6-201 through R3-6-204, expired under A.R.S. § 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).*

*Article 2, consisting of Sections R3-6-201 through R3-6-204, adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2).*

## Section

- R3-6-201. Expired  
R3-6-202. Expired  
R3-6-203. Expired  
R3-6-204. Expired

**ARTICLE 1. MARKETING****R3-6-101. Certificate of Free Sale**

- A.** Any person manufacturing or distributing a consumable product in Arizona and who wants to sell it domestically or abroad, may apply to the Department for a Certificate of Free Sale. If an applicant is a subsidiary of a corporation, the application will be accepted only from the parent company. The application shall contain:

1. The name, address, telephone, and facsimile number of the company;
2. The name of the contact person;
3. A list of the consumable products manufactured, distributed, or sold in Arizona;
4. The printed name, signature, and social security number of the responsible party;
5. The country of export, if applicable;
6. The fee prescribed in subsection (B);
7. Copies of 3 different invoices or bills-of-lading from the 3 months preceding the application; and
8. The purchaser's telephone number cited on each invoice or bill-of-lading.

**B. Fees.**

1. Certificate of Free Sale: \$25 for each 100 products, plus the cost of postage;
2. Duplicate certificates, if requested within 3 months of the original certificate issue: \$1 per page, plus the cost of postage.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 45, effective December 8, 1999 (Supp. 99-4).

**R3-6-102. Phytosanitary Certification**

- A.** During fiscal year 2013, a person who applies to the Department for phytosanitary certification shall pay the following fee:

1. For state certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.
2. For federal certification, \$50 plus the federal administrative user fee set out in 7 CFR 354.3(g)(3)(i), revised January 1, 2012, which is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available for inspection at the Department, 1688 W. Adams St., Phoenix, Arizona 85007 or may also be viewed at <http://www.gpo.gov/fdsys/>.

- B.** This Section does not apply to phytosanitary certification under A.A.C. R3-4-301.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1339, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1765, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2066, effective August 2, 2012 (Supp. 12-3).

**ARTICLE 2. JOINT-VENTURES****R3-6-201. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

**R3-6-202. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

**R3-6-203. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

**R3-6-204. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### Table of Contents

<input type="checkbox"/> <b>REMOVE</b>	Supp. 12-2 pages i-iii	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages i
--	---------------------------	---	-------------------------------

#### Chapter 7 – Board of Chiropractic Examiners

Sections, Parts, Exhibits, Tables or Appendices modified

R4-7-404, R4-7-504, R4-7-601, R4-7-801, R4-7-802

<input type="checkbox"/> <b>REMOVE</b>	Supp. 08-1 Pages 1-13	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-16
--	--------------------------	---	----------------------------------

#### Chapter 17 – Arizona Regulatory Board of Physician Assistants

Sections, Parts, Exhibits, Tables or Appendices modified

R4-17-101 through R4-17-102, Table 1, Article 2, R4-17-201 through R4-17-207, Article 3, R4-17-301 through R4-17-305,  
R4-17-402 through R4-17-403

<input type="checkbox"/> <b>REMOVE</b>	Supp. 05-2 Pages 1-9	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-6
--	-------------------------	---	---------------------------------

#### Chapter 19 – Board of Nursing

Sections, Parts, Exhibits, Tables or Appendices modified

R4-19-101, Table 1, R4-19-206, R4-19-311 through R4-19-312, R4-19-401 through R4-19-403, R4-19-505 through R4-19-506,  
R4-19-508 through R4-19-509, R4-19-514 through R4-19-516, R4-19-814

<input type="checkbox"/> <b>REMOVE</b>	Supp. 11-4 Pages 1-44	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-43
--	--------------------------	---	----------------------------------

#### Chapter 22 – Board of Osteopathic Examiners in Medicine and Surgery

Sections, Parts, Exhibits, Tables or Appendices modified

R4-22-108

<input type="checkbox"/> <b>REMOVE</b>	Supp. 06-3 Pages 1-6	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-6
--	-------------------------	---	---------------------------------



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### **Chapter 24 – Board of Physical Therapy**

Sections, Parts, Exhibits, Tables or Appendices modified

R4-24-107, R4-24-208, R4-24-302, R4-24-308, R4-24-312, R4-24-502

☐ **REMOVE** Supp. 12-1  
Pages 1-19

☐ **REPLACE** Supp. 12-3  
with pages 1-18

### **Chapter 26 – Board of Psychologist Examiners**

Sections, Parts, Exhibits, Tables or Appendices modified

Article 4, R4-26-401 through R4-26-418

☐ **REMOVE** Supp. 07-2  
Pages 1-15

☐ **REPLACE** Supp. 12-3  
with pages 1-22

### **Chapter 29 – Office of Pest Management**

Sections, Parts, Exhibits, Tables or Appendices modified

R4-29-105

☐ **REMOVE** Supp. 12-1  
Pages 1-28

☐ **REPLACE** Supp. 12-3  
with pages 1-28

### **Chapter 38 – Board of Homeopathic and Integrated Medicine Examiners**

Sections, Parts, Exhibits, Tables or Appendices modified

R4-38-106

☐ **REMOVE** Supp. 11-3  
Pages 1-15

☐ **REPLACE** Supp. 12-3  
with pages 1-15

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

(Authority: A.R.S. § 32-904 et seq.)

*Editor's Note: All former rules renumbered, and a new Article 10 added (Supp. 85-5).*

**ARTICLE 1. DEFINITIONS; MEETINGS**

Section	
R4-7-101.	Definitions
R4-7-102.	Repealed
R4-7-103.	Renumbered
R4-7-104.	Meetings

**ARTICLE 2. COMMITTEES**

Section	
R4-7-201.	Formation
R4-7-202.	Powers and duties
R4-7-203.	Renumbered

**ARTICLE 3. HEARINGS**

Section	
R4-7-301.	Investigation of a Complaint
R4-7-302.	Service
R4-7-303.	Conduct of Hearing
R4-7-304.	Repealed
R4-7-305.	Rehearing or Review

**ARTICLE 4. EXAMINATIONS**

Section	
R4-7-401.	Repealed
R4-7-402.	Renumbered
R4-7-403.	Repealed
R4-7-404.	Investigations
R4-7-405.	Refusal to Issue Licenses
R4-7-406.	Repealed

**ARTICLE 5. LICENSES**

Section	
R4-7-501.	Display of Licenses
R4-7-502.	Procedures for Processing Initial License Applications
R4-7-503.	Renewal License: Issuance, Reinstatement
R4-7-504.	License: Denial
R4-7-505.	Renumbered

**ARTICLE 6. ACUPUNCTURE CERTIFICATION**

Section	
R4-7-601.	Definition of Acupuncture as Applied to Chiropractic
R4-7-602.	Repealed
R4-7-603.	Renumbered
R4-7-604.	Renumbered
R4-7-605.	Renumbered
R4-7-606.	Renumbered

**ARTICLE 7. STANDARDS OF EDUCATION**

Section	
R4-7-701.	Repealed
R4-7-702.	Educational Requirements for Licensure

**ARTICLE 8. CONTINUING EDUCATION**

*New Article 8, consisting of Sections R4-7-801 through R4-7-803, adopted effective June 19, 1997 (Supp. 97-2).*

*Article 8, consisting of Sections R4-7-60 through R4-7-62, renumbered as Sections R4-7-801 through R4-7-803, effective September 27, 1985 (Supp. 85-5).*

*Article 8, consisting of Sections R4-7-60 through R4-7-63, repealed effective May 14, 1980 (Supp. 80-3).*

Section	
R4-7-801.	Continuing Education Requirements
R4-7-802.	Documenting Compliance with Continuing Education Requirements
R4-7-803.	Effect on Suspension of Continuing Education Requirements

**ARTICLE 9. UNPROFESSIONAL CONDUCT**

Section	
R4-7-901.	Advertising of a Deceptive and Misleading Nature
R4-7-902.	Unprofessional or Dishonorable Conduct

**ARTICLE 10. PRECEPTORSHIP TRAINING PROGRAM**

*Former Sections R4-7-1001 through R4-7-1003 repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2). New Sections R4-7-1001 through R4-7-1003 adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).*

*Article 10, consisting of Sections R4-7-1001 through R4-7-1003, adopted effective September 27, 1985.*

Section	
R4-7-1001.	Eligibility; Application
R4-7-1002.	Practice Limitations
R4-7-1003.	Regulation and Termination of the Preceptorship Program
Appendix A.	Repealed
Appendix B.	Repealed
Appendix C.	Repealed
Appendix D.	Repealed
Appendix E.	Repealed
Appendix F.	Repealed

**ARTICLE 11. CHIROPRACTIC ASSISTANTS**

*Article 11, consisting of Sections R4-7-1101 through R4-7-1103, adopted effective December 18, 1992 (Supp. 92-4).*

Section	
R4-7-1101.	Use of the Term "Chiropractic Assistant"
R4-7-1102.	Chiropractic Assistant Training
R4-7-1103.	Scope of Practice

**ARTICLE 12. EXPIRED**

*Article 12, consisting of Sections R4-7-1201 through R4-7-1204, expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).*

*Article 12, consisting of Sections R4-7-1201 through R4-7-1204, made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4).*

Section	
R4-7-1201.	Expired
R4-7-1202.	Expired
R4-7-1203.	Expired
R4-7-1204.	Expired

**ARTICLE 13. CHARGES**

*Article 13, consisting of Section R4-7-1301, adopted by final rulemaking at 5 A.A.R. 4532, effective November 9, 1999 (Supp. 99-4).*

## Section

R4-7-1301. Additional Charges

**ARTICLE 1. DEFINITIONS; MEETINGS****R4-7-101. Definitions**

In addition to the definitions in A.R.S. § 32-900, unless otherwise specified, the following terms have the following meanings:

1. "Adequate patient records" means legible chiropractic records containing, at the minimum, sufficient information to identify the patient and physician, support the diagnosis, identify the specific elements of the chiropractic service performed, indicate special circumstances or instruction provided to the patient, if any, identify a treatment plan, and provide sufficient information for another practitioner to assume continuity of patient care.
2. "Business day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. except for state holidays.
3. "C.A." means a chiropractic assistant under A.R.S. § 32-900.
4. "Certification" means approval to practice chiropractic specialties under A.R.S. § 32-922.02.
5. "Chiropractor" means doctor of chiropractic or chiropractic physician pursuant to A.R.S. §§ 32-925(A), 32-926(A) and (B) and may be designated by the abbreviation "D.C."
6. "Controlled substance" means a drug or substance identified, defined, or listed in A.R.S. Title 36, Chapter 27, Article 2.
7. "Device" has the same meaning as prescribed in A.R.S. § 32-1901.
8. "Diagnosis" means the determination of the nature of a condition or illness under A.R.S. § 32-925(A) and (B).
9. "Dispense" means to deliver to an ultimate user under A.R.S. § 32-925(A) and (B).
10. "Extern" means a student of a Board-approved chiropractic college who participates in the preceptorship training program.
11. "License" means a document issued by the Board to practice chiropractic
12. "Non-prescription drug" or "over-the-counter drug" has the same meaning as prescribed in A.R.S. § 32-1901. Drug has the same meaning as prescribed in A.R.S. § 32-1901, but does not include those substances referenced in subsection (13).
13. "Nutrition" includes, but is not limited to, vitamins, minerals, water, enzymes, botanicals, homeopathic preparations, phytonutrients, glandular extracts, and natural hormones.
14. "Preceptor" means a supervising chiropractor approved by the Board to supervise a student in a Board approved preceptorship training program.
15. "Preceptorship training program" means a Board approved program by which a student may practice chiropractic under the supervision of a preceptor.
16. "Prescribe" means to order or recommend a treatment or device.
17. "Prescription drug" has the same meaning as prescribed in A.R.S. § 32-1901.
18. "Supervision" means a licensed chiropractor is present in the office, sees a patient, assigns the work to be done regarding the patient, and is available to check the work of the supervised individual as it progresses and the completed work.

**Historical Note**

Adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-01 renumbered as Section R4-7-101

and amended effective September 27, 1985 (Supp. 85-5).

Amended effective December 18, 1992 (Supp. 92-4).

Amended effective July 6, 1993 (Supp. 93-3). Amended effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 998, effective March 16, 1999 (Supp. 99-1). Amended by final rulemaking at 14 A.A.R. 502, effective April 5, 2008 (Supp. 08-1).

**R4-7-102. Repealed****Historical Note**

Adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-02 renumbered as Section R4-7-102 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3).

**R4-7-103. Renumbered****Historical Note**

Former Section R4-7-03 renumbered as Section R4-7-103 effective September 27, 1985 (Supp. 85-5).

**R4-7-104. Meetings**

The Board shall hold its annual election of officers during its July meeting.

**Historical Note**

Former Article I, Rules 1, 2, and 3; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-04 renumbered as Section R4-7-104 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

**ARTICLE 2. COMMITTEES****R4-7-201. Formation**

The Board may from time to time appoint such committees as it deems necessary or proper to assist it in carrying out its duties. Committees may be appointed for such periods of time as the Board designates.

**Historical Note**

Former Article II, Rule 1; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-10 renumbered as Section R4-7-201 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3).

**R4-7-202. Powers and duties**

Committees appointed by the Board shall make reports to the Board based on their findings or investigations and may make recommendations for further action by the Board.

**Historical Note**

Former Article II, Rule 2; Former Section R4-7-11 renumbered as Section R4-7-202 without change effective September 27, 1985 (Supp. 85-5).

**R4-7-203. Renumbered****Historical Note**

Former Article II, Rule 3; Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-12 renumbered as Section R4-7-203 effective September 27, 1985 (Supp. 85-5).

**ARTICLE 3. HEARINGS****R4-7-301. Investigation of a Complaint**

- A. The Board may investigate any complaint alleging violation of A.R.S. § 32-900 et seq. or this Chapter.
- B. A subpoena compelling the production of documentary evidence or testimony of a witness under A.R.S. § 32-929 shall



bear the seal of the Board and the signature of any member of the Board or the Board's executive director.

- C. If the Board finds probable cause that a licensee has violated A.R.S. § 32-900 et seq. or this Chapter, the Board shall notice the licensee of the time and place for a formal interview under A.R.S. Title 32, Chapter 8, Article 2, for a public hearing under A.R.S. Title 41, Chapter 6, Article 10.

#### Historical Note

Former Article III, Rule 1; Former Section R4-7-15 repealed, new Section R4-7-15 adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-15 renumbered as Section R4-7-301 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 7 A.A.R. 1539, effective March 13, 2001 (Supp. 01-1). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

#### R4-7-302. Service

- A. Service of any document, or a copy thereof, is deemed to have been made upon personal service or by enclosing a copy of the document in a sealed envelope and depositing the envelope as certified mail in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
- B. Service by mail is deemed complete five days following the day the paper to be served is deposited in the United States mail.
- C. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted but, if the last day falls on a Sunday or a holiday, that day is not counted and service is considered completed on the next business day.
- D. The Board shall mail each notice of formal interview or hearing and final decision by certified mail to the last known address reflected in the records of the Board.
- E. In addition to service of any pleading upon the Board or any member of the Board, a copy of the pleading shall also be served upon the Attorney General of this state.

#### Historical Note

Former Article III, Rule 2; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-16 renumbered as Section R4-7-302 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

#### R4-7-303. Conduct of Hearing or Formal Interview

- A. All hearings shall be conducted before the Board or a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 10. All formal interviews shall be conducted before the Board pursuant to A.R.S. Title 32, Chapter 8, Article 2.
- Parties may stipulate to any facts that are not in dispute. Stipulations may be made in writing or orally by reading the stipulation into the record. A stipulation is binding upon the parties unless the Board grants permission to withdraw from the stipulation. The Board may set aside any stipulation and proceed to ascertain the facts.
  - The Board may, of its own motion or at request of any party, call a conference of the parties at the opening of any hearing or formal interview or at any subsequent time, for the purpose of clarifying the procedural steps to be followed in the proceeding, or the legal or factual issues involved.

- By order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing or formal interview regarding any or all matters at issue.
- B. If a licensee fails to appear when noticed at any proceeding before the Board, the Board may act upon the available evidence and information without further notice to the licensee.

#### Historical Note

Former Article III, Rule 3; Former Section R4-7-17 repealed, new Section R4-7-17 adopted effective December 31, 1975 (Supp. 75-2). Former Section R4-7-17 renumbered as Section R4-7-303 without change effective September 27, 1985 (Supp. 85-5). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

#### R4-7-304. Repealed

#### Historical Note

Former Article III, Rule 4; Former Section R4-7-18 renumbered as Section R4-7-304 without change effective September 27, 1985 (Supp. 85-5). Section repealed effective July 6, 1993 (Supp. 93-3).

#### R4-7-305. Rehearing or Review

- A. Except as provided in subsection (G), any party in an appealable agency action or contested case before the Board aggrieved by a decision may file with the Board a written motion for rehearing or review specifying the particular grounds not later than 30 days after service of the final administrative decision.
- B. A party may amend a motion for rehearing or review no later than eight days prior to the date set for the Board to rule on the motion. A party may respond within 15 days after service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board may grant a rehearing or review for any of the following causes materially affecting the moving party's rights:
- Irregularity in the administrative proceedings of the Board, its hearing officer, or the prevailing party, or any order or abuse of discretion that deprives the moving party of a fair hearing;
  - Misconduct of the Board, the hearing officer, or the prevailing party;
  - Accident or surprise that could not have been prevented by ordinary prudence;
  - Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  - Excessive or insufficient penalties;
  - Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
  - That the decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- E. Not later than 10 days after the decision, the Board may, after serving each party with notice and an opportunity to be heard, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the

order granting a rehearing or review shall specify the grounds on which it is granted.

- F.** When a motion for rehearing or review is based upon an affidavit, the affidavit shall be served with the motion. An opposing party may, within 10 days after service, serve an opposing affidavit. The Board may extend the period for serving an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- G.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, or safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

#### Historical Note

Adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-7-19 renumbered as Section R4-7-305 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Amended effective June 23, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 1539, effective March 13, 2001 (Supp. 01-1). Amended by final rulemaking at 13 A.A.R. 1846, effective July 10, 2007 (Supp. 07-2).

### ARTICLE 4. EXAMINATIONS

#### R4-7-401. Repealed

##### Historical Note

Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-20 renumbered as Section R4-7-401 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

#### R4-7-402. Renumbered

##### Historical Note

Former Article IV, Rule 1 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-21 renumbered as Section R4-7-402 effective September 27, 1985 (Supp. 85-5).

#### R4-7-403. Repealed

##### Historical Note

Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-22 renumbered as Section R4-7-403 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

#### R4-7-404. Investigations

The Board may require an applicant to appear and supply to the Board information or documents necessary to establish the qualifications of applicant.

##### Historical Note

Former Article IV, Rule 2; Former Section R4-7-23 renumbered as Section R4-7-404 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 1539, effective March 13, 2001 (Supp. 01-1). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

#### R4-7-405. Refusal to Issue Licenses

If the Board, after investigation of an applicant either before or after the applicant has taken the examination, determines that an applicant is not qualified to be issued a license, the Board shall notify applicant immediately of its decision to refuse to issue a license and the reasons therefore.

##### Historical Note

Former Article IV, Rule 3; Former Section R4-7-24 renumbered as Section R4-7-405 without change effective September 27, 1985 (Supp. 85-5). Amended effective December 9, 1994 (Supp. 94-4).

#### R4-7-406. Repealed

##### Historical Note

Former Article IV, Rule 4; Former Section R4-7-25 renumbered as Section R4-7-406 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

### ARTICLE 5. LICENSES

#### R4-7-501. Display of Licenses

A licensee shall, at all times, display the license issued to the licensee by the Board in a conspicuous place at all locations where the licensee engages in the practice of chiropractic, including mobile practices. A licensee shall, upon request of any person, produce for inspection the license renewal certificate for the current calendar year.

##### Historical Note

Former Article V, Rule 1; Former Section R4-7-30 renumbered as Section R4-7-501 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

#### R4-7-502. Procedures for Processing Initial License Applications

- A.** An applicant may obtain a license application package at the Board Office on business days, or by requesting that the Board mail the application to an address specified by the applicant. An applicant shall pay the Board a non-refundable \$10 fee for each license application package.
- B.** A completed license application package shall be submitted to the Board office on business days. The Board shall deem the license application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office;
- C.** To complete a license application package, an applicant shall provide the following information and documentation:
  1. Two identical photographs, measuring three inches by four inches, showing the applicant's full front face as the applicant will appear at the time of the examination and a description of identifying characteristics, if any;
  2. The applicant's full current name and any former names;
  3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past five years;
  4. The type of license, for which application is made;
  5. All fees required by A.R.S. §§ 32-921(D) and (E) and 32-922.02(E);
  6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examina-

Board of Chiropractic Examiners

tion conducted by the National Board of Chiropractic Examiners;

7. Any record of being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
  8. A completed fingerprint card;
  9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other state or jurisdiction;
  10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed, if applicable;
  11. The applicant's Social Security number;
  12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;
  13. A score of 75% or higher on the Arizona Jurisprudence Examination. The applicant shall not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.
- D.** Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.
- E.** An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- F.** If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
- G.** After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.
- H.** The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a license application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.

**I.** An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.

**J.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

**Historical Note**

Former Article V, Rule 2; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-31 renumbered as Section R4-7-502 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

**R4-7-503. Renewal License: Issuance, Reinstatement**

- A.** At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by first class mail to a licensee at the licensee's address of record, a renewal application and notice.
- B.** The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the postmarked date or the date the licensee hand delivers the license renewal application.
- C.** To complete a license renewal application, a licensee shall provide the following information and documentation:
1. The licensee's full name;
  2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
  3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
  4. The licensee's Social Security number;
  5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of a license in this or any other state;
  6. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of the license;
  7. The renewal fee of \$170.00 required by A.R.S. § 32-923;
  8. Attestation of compliance with the continuing education requirements under A.R.S. § 32-931 and R4-7-801. The licensee shall attest to compliance with continuing education requirements by documenting, on the renewal form, the date or dates the continuing education course was attended, the number of hours of continuing education completed, the qualifying course topic or topics, and the name of the accredited college or university with whom the course instructor is affiliated with as faculty. If the course does not meet the requirements under A.R.S. § 32-931 and R4-7-801, but has been approved by the Board, the applicant shall provide the continuing education course approval number issued by the Board instead of the name of the affiliated college or university;
  9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.

- D. In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.
- E. The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of \$100 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1, and March 31 of the calendar year for which the license renewal is made.
- F. On or after April 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).
- G. An application for reinstatement of license may be obtained at the Board office on business days or by requesting that the Board mail one to an address specified by the applicant.
- H. A completed application for reinstatement of a license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a license received on the date that the Board stamps on the application as the date it is delivered to the Board office.
- I. To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:
  1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee;
  2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers;
  3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed;
  4. The applicant's Social Security number;
  5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;
  6. A list of required continuing education courses completed and certification of course completion;
  7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew the license;
  8. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure;
  9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.
- J. The Board shall process a license reinstatement application in accordance with R4-7-502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the date the application is delivered to the Board Office.
- K. The Board shall reinstate or renew a license if:
  1. The applicant or licensee has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.;
  2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure;
  3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.
- L. If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.
- M. If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.
- N. An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required through written notice by the Board within 60 calendar days from the date of the Board's notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- O. If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application or reinstatement application.
- P. The Board shall make a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.
- Q. For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal or reinstatement of licenses:
  1. Administrative completeness review time-frame: 25 business days.
  2. Substantive review time-frame: 70 business days.
  3. Overall time-frame: 95 business days.

#### Historical Note

Former Article V, Rule 3; Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-32 renumbered as Section R4-7-503 effective September 27, 1985 (Supp. 85-5). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

#### R4-7-504. License: Denial

If the Board denies a license, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial;
3. The time periods for appealing the denial; and
4. The right to request an informal settlement conference with the Board's authorized agent.

**Historical Note**

Former Article V, Rule 4 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-33 renumbered as Section R4-7-504 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

**R4-7-505. Renumbered**

**Historical Note**

Former Article V, Rule 4 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-34 renumbered as Section R4-7-505 effective September 27, 1985 (Supp. 85-5).

**ARTICLE 6. ACUPUNCTURE CERTIFICATION**

**R4-7-601. Definition of Acupuncture as Applied to Chiropractic**

- A. Acupuncture as applied to chiropractic is stimulation of a certain meridian point or points on or near the surface of the body to control and regulate the flow and balance of energy of the body.
- B. Acupuncture includes acupuncture by needle, electrical stimulation, ultrasound, acupressure, laser, auricular therapy, or any implement that stimulates acupuncture points.
- C. Acupuncture does not include cupping, moxibustion, or cosmetic therapy.

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-40 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-40 renumbered as Section R4-7-601 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

**R4-7-602. Repealed**

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-41 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-41 renumbered as Section R4-7-602 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-603. Renumbered**

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-42 renumbered as Section R4-7-603 effective September 27, 1985 (Supp. 85-5).

**R4-7-604. Renumbered**

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-43 renumbered as Section R4-7-604 effective September 27, 1985 (Supp. 85-5).

**R4-7-605. Renumbered**

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-44 renumbered as Section R4-7-605 effective September 27, 1985 (Supp. 85-5).

**R4-7-606. Renumbered**

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-45 renumbered as Section R4-7-606 effective September 27, 1985 (Supp. 85-5).

**ARTICLE 7. STANDARDS OF EDUCATION**

**R4-7-701. Repealed**

**Historical Note**

Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-50 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-50 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-50 renumbered as Section R4-7-701 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 8 A.A.R. 4895, effective January 7, 2003 (Supp. 02-4).

**R4-7-702. Educational Requirements for Licensure**

To qualify for licensure, an individual shall have graduated from a college of chiropractic that is accredited as specified in A.R.S. § 32-921(B)(2)(a) or that meets the standards of education for accreditation contained in The Council on Chiropractic Education Standards for Doctor of Chiropractic Programs and Institutions.

**Historical Note**

Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-51 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-51 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-51 renumbered as Section R4-7-702 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4895, effective January 7, 2003 (Supp. 02-4).

**ARTICLE 8. CONTINUING EDUCATION**

**R4-7-801. Continuing Education Requirements**

- A. To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year, and document compliance with continuing education requirements on the license renewal application as required by R4-7-503(C). Continuing education credit shall be given for a minimum of 50 minutes of continuous study for each class hour. No credit shall be allowed for breaks or for time expended for study outside of the classroom.
- B. Basic requirements – The primary consideration in determining whether or not a specific course qualifies as acceptable continuing education is that it must be a formal program of learning which will contribute directly to the professional competence of a licensee in the practice of chiropractic. Each course shall be on subjects of clinical benefit to the consumer of chiropractic services.
  - 1. The content of the course, seminar or workshop must be recognized by reputable authorities as having validity, and must conform to the scope of practice for assessment, treatment and diagnosis as authorized under A.R.S. § 32-925 and A.R.S. § 32-922.02.
  - 2. Instructors shall be qualified by education and/or experience to provide instruction in the relevant subject matter.
  - 3. Each licensee is responsible for determining in advance that the course which he or she attends qualifies for continuing education credit under this Article.
- C. A licensee shall only obtain continuing education credit by:

1. Attending a course, (which includes a seminar or workshop), through a provider and on subjects that have been pre-approved by the Board.
  2. Participating in the development of, or proctoring the National Board of Chiropractic Examiners (NBCE) examinations. Continuing education credits earned in this manner are calculated as one credit hour for each hour of participation in the development of the NBCE examination for a maximum credit of eight hours per year, and one credit hour for each hour proctoring the NBCE exam for a total of eight hours per year. A licensee shall obtain a certificate of participation from the National Board of Chiropractic Examiners to verify compliance with this provision.
  3. By teaching a post-graduate course that has been pre-approved by the Board for continuing education credit under this Section as a faculty member of a college or university that is accredited by or is in good standing with the Council on Chiropractic Education or is accredited by an accrediting agency recognized by the United States Department of Education or the Private Postsecondary Education Board during the renewal year. Continuing education credits earned in this manner are calculated as one credit of continuing education for each hour of post-graduate course instruction. A maximum of six credits of continuing education credit may be earned in this manner annually.
  4. By completing a post-graduate mediated instruction or programmed learning course pre-approved by the Board through an accredited college or university that meets the requirements of A.R.S. § 32-931(B). Mediated instruction and programmed learning refers to learning transmitted by intermediate mechanisms such as webinar or other internet delivered courses that are structured to confirm 50 minutes of continuous instruction for each credit hour received. A licensee shall obtain a certificate of program completion from the accredited college or university to verify compliance with this provision.
- D.** The following are predetermined to meet Board approval as providers for continuing education. Additional approval is not required, nor should it be expected. An application submitted for a course that falls under this subsection shall be returned to the applicant without a review and subsection (E) does not apply. Coursework provided by these entities is approved as meeting continuing education requirements only for those subjects listed in subsections (J) and (K) of this Section. Pre-approval does not include mediated instruction or programmed learning courses.
1. A college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a), the American Chiropractic Association and the International Chiropractors Association, with qualified instructors and that provide courses that meet the subject requirements under subsections (J) or (K).
  2. CPR training provided or sponsored by the American Heart Association, the American Red Cross, or an entity that meets equivalent standards of the American Heart Association and the American Red Cross. A maximum of four credits of continuing education credit may be earned in this manner annually.
  3. Participation in the development of or proctoring the NBCE examinations.
- E.** Prior approval is required for all course providers not mentioned in subsection (D) and for all mediated instruction or programmed learning courses regardless of subsection (D). A provider applying for approval of a continuing education course shall submit a complete application to the Board at least 60 days prior to the anticipated initial date of the course if submitted by internet, or 75 days if provided in hard copy form. The Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing and the applicant must submit the missing information within 10 days of the notice. The Board will not approve a course if a complete application has not been submitted at least 15 business days prior to the initial date of the course identified in the initial application. If the applicant changes the initial date of the course or the course content or the instructors, it shall be considered a new application. A complete application shall include:
1. The name, dates, and locations of the course.
  2. The number of hours requested for approval.
  3. The subjects of the course, broken down by the specific time of instruction in/of each subject.
  4. A course description including the content, explicit written objectives identifying expected learner outcomes for each section of the course and teaching method (i.e. lecture, discussion, PowerPoint, internet, webinar).
  5. A detailed, hour by hour syllabus identifying the subject of instruction for each hour, with the instructor for each section identified. If less than an hour is dedicated to a subject, the syllabus shall identify the number of minutes dedicated to instruction on that subject.
  6. A resume or curriculum vitae for each instructor and an attestation of the following:
    - a. Licenses for all instructors are currently in good standing.
    - b. No instructor has had a license placed on probation or restricted within the past five years in this or any other jurisdiction.
    - c. No instructor has ever had a license suspended or surrendered for unprofessional conduct or revoked in this or any other jurisdiction.
    - d. No instructor has had a license application or renewal denied for unprofessional conduct.
    - e. No instructor has been convicted of a misdemeanor involving moral turpitude or a felony in this or any other jurisdiction.
  7. Documentation of license in good standing for each instructor for each state in which the instructor has or currently holds a license, if applicable. If an instructor is currently under investigation by a regulatory agency or is under investigation for, or been charged with, a criminal offence, the applicant shall disclose the investigation or charge and shall provide all relevant records.
  8. One letter of reference for each course instructor from a person familiar with the instructor's qualifications as an instructor and education and/or experience in the relevant subject.
  9. Identification of a sponsor, if applicable, and disclosure of any connection between the provider and/or instructor and/or sponsor of any commercial relationship and/or any external entity giving financial support to the course. If the course does have a sponsor, a completed sponsor/program provider agreement for continuing education, signed and notarized by a responsible party must be provided with the application.
  10. Documentation of the method by which attendance will be monitored, confirmed and documented.
  11. The name and contact information for the attendance certifying officer with an attestation that the certifying officer is supervised by the applicant provider and a

## Board of Chiropractic Examiners

description of the supervision method employed to confirm that the certifying officer is performing the duty of monitoring and confirming attendance.

12. Attestation that each course hour consists of no less than 50 minutes of continuous instruction and that credit is not provided for breaks.
  13. The non-refundable fee required under R4-7-1301 for each course, whether individual or included in a program of multiple courses.
  14. The name, address, telephone number, fax number and e-mail of a contact person.
  15. Any other information required or requested by the Board.
  16. If the course is a mediated instruction or programmed learning course, a detailed description of the method used to confirm that the participant was engaged in 50 minutes of continuous instruction for each credit hour awarded.
  17. The Board may require that the applicant provide additional information in support of the application if the course qualifications are not clearly demonstrated through the materials provided.
- F.** The Board shall approve a continuing education course if the applicant has submitted a complete application to the Board's satisfaction within the time-frame required by this Chapter and has demonstrated the following:
1. The course complies with this Chapter.
  2. The course instructors is faculty with an accredited college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a) or demonstrates equivalent qualifications through postgraduate study and experience teaching postgraduate coursework. An instructor must:
    - a. Hold an applicable license in good standing.
    - b. Shall not have had a license placed on probation within the last five years.
    - c. Shall not ever had a license suspended, surrendered for unprofessional conduct or revoked.
    - d. Shall not have had a license application or renewal denied for unprofessional conduct.
    - e. Shall not or been convicted of a felony in this or any other jurisdiction.
  3. The course instructor is qualified by education and experience to provide instruction in the relevant subject matter.
  4. The subject of the course qualifies under subsections (D)(2) and (3), (J) and (K).
  5. The course demonstrates attendance and/or monitoring procedures. Monitoring procedures must provide confirmation that a licensee was engaged in 50 minutes of continuous study for each credit hour.
- G.** The Board shall not approve a continuing education course if the applicant fails to submit a complete application within the time-frame required by this Chapter or if:
1. The course does not qualify under this Chapter.
  2. The course subject does not qualify for continuing education credit under subsections (D)(2) and (3), (J) and (K).
  3. The instructor does not qualify as per subsection (F)(2).
  4. The instructor's references do not support the qualifications of the instructor as per subsection (F).
  5. The course primary focus is to promote a product or service.
  6. The course requires participants to purchase a product or service.
  7. The course has no significant relationship to the assessment, diagnosis or treatment of patients within the scope of practice of chiropractic as defined under A.R.S. §§ 32-925 and 32-922.02.
8. The content cannot be verified.
  9. The course refutes generally accepted medical care and treatment and/or instructs participants to encourage patients to stop taking medication and/or stops participating in generally accepted medical care or fails to qualify under subsection (K).
- H.** A course approved by the Board pursuant to subsections (E) and (F) shall be issued an approval number. Once approved, a course provider shall:
1. Provide course attendees with a certificate confirming course participation. The certificate shall:
    - a. Include the name of the college or university through which the course was completed, or the course approval code issued by the Board, if applicable;
    - b. The name and Arizona license number of the attendee;
    - c. The name of the course provider, the course subject matter;
    - d. The name of the course if different than the subject matter listed;
    - e. The date and location of the course; and
    - f. The number of hours of continuing education completed.
  2. Maintain a list of all course attendees for a minimum of five years after each date that the course is held, and shall provide a copy of the list to the board within 10 days of a written request to do so.
  3. Maintain a copy of the course syllabus and stated learning objectives, a list of instructors and documentation of the name, location and date of the course for a minimum of five years and shall provide the Board with a copy of these materials within 10 days of a written request to do so.
  4. Monitor course attendance by each attendee in a manner that confirms that the attendee was present and participating in the course for a continuous 50 minutes for each hour of continuing education credited.
  5. Notify the Board immediately of concerns or problems that may arise regarding the approved course, to include discipline being imposed on the license of an instructor or an instructor being convicted of a criminal offense.
  6. Reapply for Board approval every two years no later than the first day of the month in which the course was initially approved, and every time the subject of the course changes and/or there is a change in instructors that does not include an instructor already approved by the Board. Failure to reapply as per this subsection shall disqualify the course for ongoing continuing education credit.
  7. Not represent that the course is sanctioned or promoted by the state of Arizona Board of Chiropractic Examiners. The provider may state that the course meets the continuing education requirements as per A.R.S. § 32-931. If the course has been directly approved by the Board, the provider may display the Board's course approval number.
- I.** The Board may monitor a continuing education provider's compliance with continuing education statutes and rules as follows:
1. The Board may request any or all documentation as per Section (H) of this rule from a board-approved continuing education provider for any course registered for license renewal to ensure compliance with this rule.
  2. A representative of the Board may attend any approved continuing education course for the purpose of verifying the content of the program and ensuring compliance with

the Board's continuing education rules at no charge to the Board representative.

3. If the Board finds that a course or provider is not compliant with the continuing statutes or rules, has misrepresented course content or instructors in an application, failed to obtain new approval for a course with a change in subject or instructor or failed to pay the course fee, the Board may withdraw its approval for continuing credit for the course and/or the provider. The withdrawal of approval shall be effective upon written notification to the provider's contact of record by the Board.
  4. The Board shall notify a provider that it will consider withdrawal of course approval and provide the date, time and location of the meeting at which the matter will be discussed and possible action taken.
  5. If approval is withdrawn, the Board shall notify the provider of the reasons for withdrawal of approval.
  6. The provider shall notify all Arizona licensees who attended the course that any course hours obtained through the course cannot be used for continuing education credit of license renewal in the state of Arizona. If a provider fails to provide appropriate notice to Arizona licensed attendees, within ten business days of written notice from the Board that course approval has been withdrawn, that provider shall not be considered for approval of continuing education credit in the future. The notice to the Arizona licensed attendees must be made by certified mail in order to establish documentation that the requirement was met.
- J.** Course subjects approved for continuing education for renewal of an Arizona chiropractic license are:
1. Adjusting techniques;
  2. Spinal analysis;
  3. Physical medicine modalities and therapeutic procedures as defined in A.R.S. § 32-900(7) and (8);
  4. Recordkeeping and documentation;
  5. Ethics;
  6. CPR;
  7. Public health;
  8. Communicable diseases;
  9. Sexual boundaries;
  10. Emergency procedures;
  11. Acupuncture;
  12. Nutrition;
  13. Examination;
  14. Assessment and diagnostic procedures to include physical, orthopedic, neurological procedures;
  15. Radiographic technique;
  16. Diagnostic imaging and interpretation;
  17. Laser as permitted by law;
  18. Clinical laboratory procedures limited to urine collection, fingerpicks and venipuncture (not to be confused with evaluation of lab reports);
  19. Anatomy;
  20. Physiology;
  21. Bacteriology;
  22. Chiropractic orthopedics and neurology;
  23. Chemistry;
  24. Pathology;
  25. Patient management;
  26. Evidence-based clinical interventions models;
  27. Symptomatology;
  28. Arizona jurisprudence, and;
  29. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.
- K.** In addition to the subjects in subsections (A), (C), (D) and (J), courses for the purpose of recognizing, assessing and determining appropriate referral or collaborative treatment of complex conditions, including but not limited to cancer, autism, multiple sclerosis, diabetes, and developmental disorders, for the purpose of co-management of the patient's condition with qualified medical providers shall qualify for continuing education credit.
- L.** The following subjects shall not qualify for continuing education for the purpose of license renewal and shall not be approved by the Board:
1. Billing, coding;
  2. Malpractice defense;
  3. Practice management;
  4. Risk management;
  5. Promotion of a product or a service or a requirement that attendees purchase a product or service;
  6. Strategies to increase insurance payments;
  7. Administrative or economic aspects of a practice;
  8. Motivational courses;
  9. Legal courses other than pre-approved Board jurisprudence;
  10. Anti-aging;
  11. Hormone treatment;
  12. Aroma therapy;
  13. Stress management;
  14. Psychological treatment;
  15. HIPAA;
  16. Homeopathic practice that exceeds A.R.S. § 32-925;
  17. Professional or business meetings, speeches at luncheons, banquets, etc.;
  18. Subject matter that exceeds the assessment, diagnosis and treatment of patients within the scope of practice of chiropractic as defined in this Chapter;
  19. Any course without a significant relationship to the safe and effective practice of chiropractic under A.R.S. § 32-925 and A.R.S. § 32-922.02;
  20. And any course that involves a distance learning format or materials if the course has not been pre-approved by the board and issued a board approval number;
- M.** A licensee's compliance with subsections (A), and (C), shall include the following coursework in order to renew a license.
1. Each licensee shall complete a minimum of two hours of continuing education in recordkeeping for every even numbered year.
  2. Each person who is issued a new license to practice chiropractic in Arizona on or after January 1, 2013, is required to attend three hours of a single regularly scheduled Board meeting within the first year of residence in Arizona. The licensee cannot distribute the three hours of Board meeting attendance over two or more Board meetings. The licensee shall notify the Board in writing within ten days of moving to Arizona. The meeting attendance must be pre-scheduled and pre-approved by Board staff. Continuing education credit will not be awarded if the licensee is attending the meeting as a subject of an investigation or other Board review or if the licensee fails to properly schedule attendance as per this Section. This subsection does not pertain to any person who has had a license to practice chiropractic in Arizona issued prior to January 1, 2013.
- N.** The Board shall grant an extension of 90 days to comply with the continuing education requirements to a qualified licensee. To qualify for an extension, a licensee shall:
1. Timely file a license renewal application and renewal fee; and



Board of Chiropractic Examiners

2. Submit a written request for an extension no later than December 1 of the current renewal year, including evidence of good cause why the continuing education requirements cannot be met by December 31 of the current renewal year.
- O. The following reasons constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:
  1. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of R4-7-702, for at least seven months during the year that the continuing education requirements are to be met;
  2. The licensee was in active military service for at least seven months during the year that the continuing education requirements are to be met; or
  3. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.
- P. If the Board grants an extension of time to complete the required 12 hours of continuing education requirements, 12 hours of required continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension is granted. A licensee shall not report those 12 hours of continuing education credit earned during a 90-day extension for a subsequent renewal year.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-60 repealed, New Section R4-7-60 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-60 renumbered as Section R4-7-801 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2). Amended by final rulemaking at 18 A.A.R. 2554, effective November 19, 2012 (Supp. 12-3).

**R4-7-802. Documenting Compliance with Continuing Education Requirements**

- A. A licensee shall retain documents to verify compliance with the continuing education requirements for at least five years from the date the continuing education credit is used to qualify the licensee for renewal. The Board may audit continuing education compliance at any time during those five years by requiring submission of documentation of course completion.
- B. With each license renewal application, a licensee shall attest by providing the licensee's signature, that the licensee has met the continuing education requirements, and complied with R4-7-503(C)(8) and subsection (A). A licensee's documentation of compliance on the license renewal application shall include the name of the approved course provider.
- C. The Board may require a licensee to provide documentation to verify compliance with continuing education requirements, including evidence that:
  1. Each continuing education credit was for 50 minutes of education,
  2. The requirements of subsections (A) and (B) were satisfied,
  3. Continuing education credit was earned between the immediately preceding January 1 and the date that the license renewal application was filed or the date on which an extension of time expired,

4. No continuing education credit earned between the immediately preceding January 1 and the date that the license renewal application was filed was earned under an extension of time to comply with the continuing education requirements of a previous year, and
  5. The provisions of A.R.S. § 32-931 and R4-7-801 were met.
- D. Documentation shall be in the form of a certificate of completion issued by a Board-approved provider. The Board may require submission of a time sheet demonstrating that the licensee was in attendance for a continuous 50 minutes for every hour of continuing education credit awarded.
  - E. The Board shall suspend a license upon notification to the licensee that the licensee has failed to demonstrate compliance with continuing education requirements as per A.R.S. §§ 32-923(C) and 32-931.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-61 repealed, new Section R4-7-61 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-61 renumbered as Section R4-7-802 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2). Amended by final rulemaking at 18 A.A.R. 2554, effective November 19, 2012 (Supp. 12-3).

**R4-7-803. Effect of Suspension on Continuing Education Requirements**

A licensee whose license is suspended under A.R.S. §§ 32-923, 32-924, or 32-931, shall complete 12 credits of continuing education for each calendar year or part of a calendar year that the license is suspended before the license may be reinstated or renewed.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-62 repealed, new Section R4-7-62 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-62 renumbered as Section R4-7-803 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2).

**ARTICLE 9. UNPROFESSIONAL CONDUCT**

**R4-7-901. Advertising of a Deceptive and Misleading Nature**

The Board shall investigate an allegation of advertising in a false, deceptive, or misleading manner by a licensee and may sanction a licensee for a violation under A.R.S. § 32-924. Advertising of a false, deceptive, or misleading manner includes, but is not limited to, the following:

1. Advertising painless procedures;
2. Advertising complete health services; or
3. Advertising that uses the words "specialist," "specializing," or "expert."

**Historical Note**

Adopted effective May 8, 1978 (Supp. 78-3). Former Section R4-7-70 renumbered as Section R4-7-901 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 4895, effective January 7, 2003 (Supp. 02-4).

**R4-7-902. Unprofessional or Dishonorable Conduct**

Unprofessional or dishonorable conduct, as used in A.R.S. § 32-924(A)(5), means:

1. Failing to disclose, in writing, to a patient or a third-party payor that the licensee has a financial interest in a diagnostic or treatment facility, test, good, or service when referring a patient for a prescribed diagnostic test, treatment, good, or service and that the diagnostic test, treatment, good or service is available on a competitive basis from another provider. This subsection does not apply to a referral by one licensee to another within a group of licensees who practice together. This subsection applies regardless of whether the referred service is provided at the licensee's place of practice or at another location.
2. Knowingly making a false or misleading statement to a patient or a third-party payor.
3. Knowingly making a false or misleading statement, providing false or misleading information, or omitting material information in any oral or written communication, including attachments, to the Board, Board staff, or a Board representative or on any form required by the Board.
4. Knowingly filing with the Board an application or other document that contains false or misleading information.
5. Failing to create an adequate patient record that includes the patient's health history, clinical impression, examination findings, diagnostic results, x-ray films if taken, x-ray reports, treatment plan, notes for each patient visit, and a billing record. The notes for each patient visit shall include the patient's name, the date of service, the chiropractic physician's findings, all services rendered, and the name or initials of the chiropractic physician who provided services to the patient.
6. Failing to maintain the information required by subsection (5) for a patient, for at least six years after the last treatment date, or for a minor, six years after the minor's 18th birthday, or failing to provide written notice to the Board about how to access the patient records of a chiropractic practice that is closed by providing, at a minimum, the physical address, telephone number and full name of a person who can be contacted regarding where the records are maintained, for at least six years after each patient's last treatment date or 18th birthday.
7. Failing to:
  - a. Release a copy of all requested patient records under subsection (5), including the original or diagnostic quality radiographic copy x-rays, to another licensed physician, the patient, or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so. This subsection does not require the release of a patient's billing record to another licensed physician.
  - b. Release a copy of any specified portion or all of a patient's billing record to the patient or the authorized agent of the patient, within 10 business days of the receipt of a written request to do so.
  - c. In the case of a patient or a patient's authorized agent who has verbally requested the patient record:
    - i. Provide the patient record, or
    - ii. Inform the patient or patient's authorized agent that the record must be provided if a written request is made under subsection (7)(a) or (b).
  - d. Return original x-rays to a licensed physician within 10 business days of a written request to do so.
  - e. Provide free of charge, copies of patient records to another licensed physician, the patient, or the authorized agent of the patient in violation of A.R.S. Title 12, Chapter 13, Article 7.1.
8. Representing that the licensee is certified by this Board in a specialty area in which the licensee is not certified or has academic or professional credentials that the licensee does not have.
9. Failing to provide to a patient upon request documentation of being certified by the Board in a specialty area or the licensee's academic certification, degree, or professional credentials.
10. Practicing, or billing for services under any name other than the name by which the chiropractic physician is licensed by the Board, including corporate, business, or other licensed health care providers' names, without first notifying the Board in writing.
11. Suggesting or having sexual contact, as defined in A.R.S. § 13-1401, in the course of patient treatment or within three months of the last chiropractic examination, treatment, or consultation with an individual with whom a consensual sexual relationship did not exist prior to a chiropractic/patient relationship being established.
12. Intentionally viewing a completely or partially disrobed patient in the course of an examination or treatment if the viewing is not related to the patient's complaint, diagnoses, or treatment under current practice standards.
13. Improper billing. Improper billing means:
  - a. Knowingly charging a fee for services not rendered;
  - b. Knowingly charging a fee for services not documented in the patient record as being provided;
  - c. Charging a fee by fraud or misrepresentation, or willfully and intentionally filing a fraudulent claim with a third-party payor;
  - d. Misrepresenting the service provided for the purpose of obtaining payment; and
  - e. Charging a fee for a service provided by an unlicensed person who is not a chiropractic assistant under A.R.S. § 32-900 or for services provided by an unsupervised chiropractic assistant; and
  - f. Repeatedly billing for services not rendered or not documented as rendered or repeatedly engaging in acts prohibited under subsections (13)(c) through (e).
14. Failing to timely comply with a board subpoena pursuant to A.R.S. § 32-929 that authorizes Board personnel to have access to any document, report, or record maintained by the chiropractic physician relating to the chiropractic physician's practice or professional activities.
15. Failing to notify the Board of hiring a chiropractic assistant or to register a chiropractic assistant under R4-7-1102 or failing to supervise a chiropractic assistant, under A.R.S. § 32-900 that is supervised or employed by the chiropractic physician.
16. Allowing or directing a person who is not a chiropractic assistant and who is not licensed to practice a health care profession to provide patient services, other than clerical duties.
17. Intentionally misrepresenting the effectiveness of a treatment, diagnostic test, or device.
18. Administering, prescribing, or dispensing prescription-only medicine, or prescription-only drugs, or a prescription-only device as defined in A.R.S. § 32-1901 and pursuant to A.R.S. § 32-925(B). This subsection does not apply to those substances identified under R4-7-101(13).
19. Performing surgery or practicing obstetrics in violation of A.R.S. § 32-925(B).
20. Performing or providing colonic irrigation.

## Board of Chiropractic Examiners

21. Penetration of the rectum by a rectal probe or device for the administration of ultrasound, diathermy, or other modalities.
22. Use of ionizing radiation in violation of A.R.S. § 32-2811.
23. Promoting or using diagnostic testing or treatment for research or experimental purposes:
  - a. Without obtaining informed consent from the patient, in writing, before the diagnostic test or treatment. Informed consent includes disclosure to the patient of the research protocols, contracts the licensee has with researchers, if applicable, and information on the institutional review committee used to establish patient protection.
  - b. Without conforming to generally accepted research or experimental criteria, including following protocols, maintaining detailed records, periodic analysis of results, and periodic review by a peer review committee; or
  - c. For the financial benefit of the licensee.
24. Having professional connection with, lending one's name to, or billing on behalf of an illegal practitioner of chiropractic or an illegal practitioner of any healing art.
25. Holding oneself out to be a current or past Board member, Board staff member or a Board chiropractic consultant if this is not true.
26. Claiming professional superiority in the practice of chiropractic under A.R.S. § 32-925.
27. Engaging in disruptive or abusive behavior in a clinical setting.
28. Providing substandard care due to an intentional or negligent act or failure to act regardless of whether actual injury to the patient is established.
29. Intentionally disposing of confidential patient information or records without first redacting all personal identifying patient information or by any means other than shredding or incinerating the information or record.
30. Intentionally disclosing a privileged communication or document, or confidential patient information except as otherwise required or allowed by law.
31. Having been diagnosed by a physician whom the Board determines is qualified to render the diagnosis as habitually using or having habitually used alcohol, narcotics, or stimulants to the extent of incapacitating the licensee for the performance of professional duties.
32. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. Conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
33. Having an action taken against a professional license in another jurisdiction, any limitation or restriction of the license, probation, suspension, revocation, surrender of the license as a disciplinary measure or denial of a license application or license renewal for a reason related to unprofessional conduct.
34. Directly or indirectly dividing a professional fee for patient referrals among health care providers or health care institutions or between providers and institutions or entering into a contractual arrangement to that effect. This subsection does not prohibit the members of any regularly and properly organized business entity recognized by law from dividing fees received for professional services among themselves as they determine necessary.
35. Failing to report in writing to the Board any information based upon personal knowledge that a chiropractic physician may be grossly incompetent, guilty of unprofessional or dishonorable conduct, or mentally or physically unable to provide chiropractic services safely. Any person who reports or provides information to the Board in good faith is not subjected to civil damages as a result of reporting or providing the information. If the informant requests that the informant's name not be disclosed, the Board shall not disclose the informant's name unless disclosure is essential to the disciplinary proceedings conducted under A.R.S. § 32-924 or required under A.R.S. § 41-1010.
36. Violating any federal or state statute or rule or regulation applicable to the practice of chiropractic.
37. Any act or omission identified in A.R.S. § 32-924(A).

**Historical Note**

Adopted effective September 9, 1997 (Supp. 97-3).

Amended by final rulemaking at 14 A.A.R. 502, effective April 5, 2008 (Supp. 08-1).

**ARTICLE 10. PRECEPTORSHIP TRAINING PROGRAM****R4-7-1001. Eligibility; Application**

- A.** Both extern and preceptor shall submit a written application to the Board for approval of participation in a preceptor training program. The Board shall process the application within the time-frames provided in R4-7-502(J).
  1. The application shall be submitted on a form that contains:
    - a. The extern's photo;
    - b. The extern's and preceptor's names, addresses, telephone numbers, and any other names of the extern or preceptor;
    - c. The preceptor's license number, number of years in practice, and disciplinary history;
    - d. A waiver of confidentiality under subsection (B)(2) and notarized signature from both the extern and preceptor;
    - e. The beginning and ending date of the program;
    - f. Location, days, and hours of the program;
    - g. The name and contact number for the college sponsoring the preceptorship program under subsection (B)(1);
    - h. The date of extern graduation from a chiropractic college and identification of the proposed scope of the program for which the application is being submitted and the eligibility of the applicants for approval.
  2. The application shall require the extern and the preceptor to disclose any convictions or sanctions and whether the extern or preceptor is currently under investigation for a violation of criminal or administrative law.
- B.** Except as provided in subsection (D), the Board shall approve participation by an extern who does not come under subsection (C) and who:
  1. Concurrently participates in an undergraduate or postgraduate preceptorship program offered by an accredited chiropractic college and provides verifiable proof of enrollment;
  2. Submits a written waiver of confidentiality that permits the Board access to any information, records, or documentation collected or used by the college to evaluate the extern's eligibility for or performance in the program;
  3. Provides a certificate of attainment on Parts I and II of the examination by the National Board of Chiropractic Examiners;
  4. Successfully completes and provides documentation of the coursework required by A.R.S. § 32-922.02 for prac-

tice of chiropractic specialties, if specialties are to be included in the training program; and

5. Submits the \$75.00 filing fee, which is non-refundable except if A.R.S. § 41-1077 applies.
- C.** The Board shall not approve participation for an extern who:
1. Has been the subject of disciplinary sanction or convicted of a felony or misdemeanor involving moral turpitude;
  2. Is currently under investigation for a licensing violation, or a felony or misdemeanor involving moral turpitude;
  3. Fails to demonstrate good character and reputation;
  4. Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely; or
  5. Has practiced chiropractic without a license or through participation in an approved preceptor program.
- D.** The Board shall approve participation for a preceptor who:
1. Concurrently participates as a preceptor at the chiropractic college in which the extern is enrolled throughout the time period of the preceptor program and provides verifiable proof of participation;
  2. Submits a written waiver of confidentiality that permits the Board access to any information, records, or documentation collected or used by the college to evaluate the preceptor's eligibility for or performance in the program; and
  3. Is continuously licensed in Arizona for at least five years before the date the program is to begin and, if the program is to include practice of chiropractic specialties, is certified in those specialties for at least three years before the date upon which the program is to begin; and
- E.** The Board shall not approve participation for a preceptor who:
1. Has been the subject of disciplinary sanction or convicted of a felony or a misdemeanor involving moral turpitude;
  2. Is currently under investigation for a licensing violation, felony, or misdemeanor involving moral turpitude;
  3. Fails to demonstrate good character and reputation; or
  4. Fails to demonstrate the physical and mental ability to practice chiropractic skillfully and safely.

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2). Amended by final rulemaking at 8 A.A.R. 3293, effective July 17, 2002 (Supp. 02-3).

#### R4-7-1002. Practice Limitations

- A.** Under the supervision of the preceptor and commensurate with the extern's education, training, and experience, an extern may engage in the practice of health care, as defined in A.R.S. § 32-925, except that an extern shall not perform any procedure defined as a chiropractic specialty requiring certification unless the extern and the preceptor have met the eligibility requirements in R4-7-1001 for that specialty.
- B.** At all times when patients may be present, the extern shall wear a badge showing the extern's name and the title "Extern" in capital letters equal in size to the name.
- C.** Before an extern conducts an examination or renders care to a patient, the preceptor shall secure from the patient a written consent to the examination or care. The written consent shall specify that the patient understands that an extern is not a licensed doctor, and that the preceptor retains responsibility for quality of care. The preceptor shall maintain the signed consent as a part of the patient's file.

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

#### R4-7-1003. Regulation and Termination of the Preceptorship Program

- A.** The Board, on its own initiative or upon receipt of a complaint, may investigate conduct of an extern or preceptor occurring within the program for compliance with this Chapter and A.R.S. § 32-924. The Board may, pursuant to A.R.S. § 32-929, obtain patient records as part of the investigation.
- B.** If after investigation, the Board determines that the conduct of the extern or preceptor imperatively requires emergency action, the Board shall suspend approval of the program pending proceedings for termination or other action. The Board shall promptly notify the extern, the preceptor, and the college of the suspension, the reasons for the suspension, and the conditions under which the suspension may be lifted, if any.
- C.** If after a hearing, the Board determines that the conduct of the preceptor or the extern constitutes a violation of this Chapter or A.R.S. § 32-924, the Board shall terminate the program and may sanction the preceptor or deny licensure to the extern if the extern has applied for a license.
- D.** If the Board receives written verification from a chiropractic college that the extern or preceptor is no longer concurrently participating in the associated chiropractic college program, the Board shall terminate approval of the extern's training program.
- E.** An extern may participate in a preceptorship program until the results of the next scheduled Part IV of the National Board of Chiropractic Examiners examination are released or for six months immediately following the extern's date of graduation from chiropractic college, whichever occurs first.

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2). Amended by final rulemaking at 8 A.A.R. 3293, effective July 17, 2002 (Supp. 02-3).

#### Appendix A. Repealed

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

#### Appendix B. Repealed

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

#### Appendix C. Repealed

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

#### Appendix D. Repealed

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

#### Appendix E. Repealed

#### Historical Note

Adopted effective September 27, 1985 (Supp. 85-5). Repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).

**Appendix F. Repealed**

**Historical Note**

Adopted effective September 27, 1985 (Supp. 85-5).  
Repealed by final rulemaking at 5 A.A.R. 1602, effective  
May 20, 1999 (Supp. 99-2).

**ARTICLE 11. CHIROPRACTIC ASSISTANTS**

**R4-7-1101. Use of the Term “Chiropractic Assistant”**

Only a chiropractic assistant as defined in A.R.S. § 32-900 who assists a chiropractor by performing basic health care duties, shall use the term “chiropractic assistant” or “C.A.”

**Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Amended by final rulemaking at 5 A.A.R. 998, effective  
March 16, 1999 (Supp. 99-1).

**R4-7-1102. Chiropractic Assistant Training**

- A.** A C.A. shall complete 24 clock hours of coursework, with a minimum of four hours in each of the following subjects: chiropractic principles, management of common diseases, history taking, recordkeeping, professional standards of conduct, and CPR. If a chiropractor supervising a C.A. is certified in physiotherapy under A.R.S. § 32-922.02, the C.A. shall complete 12 hours of training in physiotherapy in addition to the 24 hours of coursework. If a chiropractor supervising a C.A. is certified in acupuncture under A.R.S. § 32-922.02, the C.A. shall complete two hours of training in acupuncture in addition to the 24 hours of coursework.
- B.** A C.A. shall take coursework from a Board-approved facility or chiropractor. The facility or chiropractor providing coursework shall submit documentation that describes each subject listed in subsection (A) to the Board for approval prior to offering the course.
- C.** A chiropractor shall inform the Board, in writing, that the chiropractor has employed a chiropractic assistant within seven days of hiring the C.A. by submitting the name of the C.A., the name and license number of the supervising chiropractor, the address and phone number where the C.A. is employed, and the initial date of hire. A C.A. shall begin Board-approved coursework within three months of initial employment with a supervising chiropractor, and shall complete the coursework within one year of initial employment with the supervising chiropractor.
- D.** A C.A. shall register with the Board upon completing required coursework. A C.A. shall submit a separate registration form for each place of employment and each supervisor. A C.A. shall register by submitting documentation to the Board on a Board-approved form, signed by the supervising chiropractor, showing the date that the C.A. completed each required subject. The Board shall issue the C.A.’s registration upon approval of the registration form.
- E.** A chiropractor supervising a C.A. shall maintain at the C.A.’s place of employment a copy of the C.A.’s registration.

**Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Amended by final rulemaking at 5 A.A.R. 998, effective  
March 16, 1999 (Supp. 99-1). Amended by final  
rulemaking at 13 A.A.R. 4584, effective February 2, 2008  
(Supp. 07-4).

**R4-7-1103. Scope of Practice**

- A.** A C.A. may only perform clinical duties that are:
  1. Consistent with a supervising chiropractor’s licensure and certification; and
  2. Delegated by the supervising chiropractor.

- B.** Clinical duties that a chiropractic assistant may perform as directed by the supervising chiropractor under subsection (A) include, but are not limited to:
  1. Asepsis and infection control,
  2. Taking patient histories and vital signs,
  3. Performing first aid and CPR,
  4. Preparing patients for procedures,
  5. Assisting the supervising chiropractor with examinations and treatments, and
  6. Collecting and processing specimens.
- C.** A chiropractic assistant who meets the education requirements for physiotherapy under R4-7-1102(A) may administer, under the direct supervision of a chiropractor certified in physiotherapy, but is not limited to administering:
  1. Whirlpool treatments,
  2. Diathermy treatments,
  3. Electronic galvanization stimulation treatments,
  4. Ultrasound therapy,
  5. Massage therapy,
  6. Traction treatments,
  7. Transcutaneous nerve stimulation unit treatments, and
  8. Hot and cold pack treatments.
- D.** A chiropractic assistant that meets the education requirements for acupuncture under R4-7-1102(A) may prepare and sterilize instruments and may remove acupuncture needles under the direct supervision of a chiropractor certified in acupuncture.
- E.** A C.A. shall not:
  1. Take an x-ray,
  2. Perform an independent examination,
  3. Diagnose a patient,
  4. Determine a regimen of patient care,
  5. Change the regimen of patient care set by the supervising chiropractor,
  6. Perform an adjustment, or
  7. Perform acupuncture by needle insertion.
- F.** A person who has had a license to practice chiropractic or any other health care profession suspended, revoked, or denied for any reason other than failing to meet education or licensing examination requirements in this or any other jurisdiction shall not perform the clinical duties of a chiropractic assistant.
- G.** As per A.R.S. § 32-900(3), a chiropractic assistant shall not be licensed to practice chiropractic in this or any other jurisdiction.
- H.** A supervising chiropractor shall be responsible for all acts or omissions of a C.A.
- I.** A person who does not meet the requirements of R4-7-1102 shall perform only clerical or administrative duties.

**Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Amended by final rulemaking at 5 A.A.R. 998, effective  
March 16, 1999 (Supp. 99-1). Amended by final  
rulemaking at 13 A.A.R. 4584, effective February 2, 2008  
(Supp. 07-4).

**ARTICLE 12. EXPIRED**

**R4-7-1201. Expired**

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259,  
effective December 17, 2001 (Supp. 01-4). Section  
expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688,  
effective December 31, 2005 (Supp. 06-1).

**R4-7-1202. Expired**

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259,

effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**R4-7-1203. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**R4-7-1204. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**ARTICLE 13. CHARGES****R4-7-1301. Additional Charges**

- A.** The Board shall collect charges for services as follows:
1. Annual license renewal fee: \$170.00;
  2. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
  3. Directories or labels: \$40.00;
  4. Annual subscription for meeting minutes: \$70.00;

5. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
6. Recordings of Board meetings: \$5.00 per disc or tape;
7. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
8. Hard copy credential verification: \$2.00 per name;
9. Verification of license status: \$25.00;
10. Continuing education course review for approval: \$50.00;
11. Jurisprudence booklet: \$10.00;
12. Duplicate renewal receipt: \$5.00;
13. Duplicate ornamental license: \$20.00;
14. Duplicate ornamental certificate: \$20.00; and
15. Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.

- B.** All charges are non-refundable, except if A.R.S. § 41-1077 applies.
- C.** The fees in this Section pertain regardless of the method by which the document is delivered.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 4532, effective November 9, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 4328, effective September 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5026, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4687, effective February 3, 2007 (Supp. 06-4).

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 17. ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS**

(Authority: A.R.S. § 32-2504)

**Editor's Note:** The name of the Joint Board on the Regulation of Physician's [sic] Assistants was changed to the Arizona Regulatory Board of Physician Assistants by Laws 2002, Ch. 277, § 7, effective August 22, 2002 (Supp. 03-2).

Laws 1984, Ch. 102, changed the name of the Joint Board of Medical Examiners and Osteopathic Examiners in Medicine and Surgery to Joint Board on the Regulation of Physician's Assistants.

Chapter 17 consisting of Article 1, Section R4-17-101; Article 2, Sections R4-17-201 through R4-17-204; Article 3, Sections R4-17-301 through R4-17-304; Article 4, Sections R4-17-401 and R4-17-402 adopted effective July 8, 1986.

Former Chapter 17 consisting of Article 1, Section R4-17-01; Article 2, Sections R4-17-02 through R4-17-06; Article 3, Sections R4-17-07 through R4-17-12; Article 4, Sections R4-17-13 through R4-17-17; Article 5, Sections R4-17-18 through R4-17-22; and Article 6, Section R4-17-23 repealed effective July 8, 1985.

**ARTICLE 1. GENERAL PROVISIONS**

## Section

- R4-17-101. Definitions
- R4-17-102. Time-frames for Licenses and Approvals
- Table 1. Time-frames

**ARTICLE 2. PHYSICIAN ASSISTANT LICENSURE**

## Section

- R4-17-201. Repealed
- R4-17-202. Examination
- R4-17-203. Regular License Application
- R4-17-204. Fees
- R4-17-205. Continuing Medical Education
- R4-17-206. License Renewal
- R4-17-207. Denial of License or Extension to Complete Continuing Medical Education
- R4-17-208. Expired

**ARTICLE 3. REPEALED**

## Section

- R4-17-301. Repealed
- R4-17-302. Repealed
- R4-17-303. Repealed
- R4-17-304. Repealed
- R4-17-305. Repealed

**ARTICLE 4. REGULATION**

## Section

- R4-17-401. Expired
- R4-17-402. Repealed
- R4-17-403. Rehearing or Review

**ARTICLE 1. GENERAL PROVISIONS****R4-17-101. Definitions**

For the purposes of A.R.S. Title 32, Chapter 25 and this Chapter:

1. "Ability to perform health care tasks authorized by A.R.S. § 32-2531" means:
  - a. The cognitive capacity to make clinical diagnoses and exercise medical judgments and to learn and keep abreast of medical developments through the completion of continuing medical education,
  - b. The ability to communicate medical judgments and medical information to patients and other professionals, and
  - c. The physical capability to perform the health care tasks authorized by A.R.S. § 32-2531.
2. "Applicant" means an individual seeking a regular license or renewal license.
3. "Category I" means a designation given to a continuing medical education activity provided by an institution or

organization that has been accredited for continuing medical education by the:

- a. Accreditation Council for Continuing Medical Education,
  - b. American Medical Association,
  - c. American Academy of Physician Assistants,
  - d. American Osteopathic Association,
  - e. Accreditation Council for Continuing Medical Education,
  - f. Accreditation Review Commission on Education for Physician Assistants, or
  - g. Commission on the Accreditation of Allied Health Education Programs.
4. "Controlled Substance" means the same as in A.R.S. § 32-1901.
  5. "Dispense" means the same as in A.R.S. § 32-1901.
  6. "Drug" means the same as in A.R.S. § 32-1901.
  7. "Health care institution" means the same as in A.R.S. § 36-401.
  8. "Health professional" means the same as in A.R.S. § 32-3201 or its equivalent in another state.
  9. "Health profession regulatory authority" means a state or federal entity that issues and regulates health professional licenses.
  10. "NCCPA" means the National Commission on the Certification of Physician Assistants.
  11. "PANCE" means the Physician Assistant National Certifying Examination.
  12. "PANRE" means the Physicians Assistants National Recertification Examination.
  13. "Prescribe" means to issue:
    - a. A signed, written order to a pharmacist for drugs or medical devices; or
    - b. An order transmitted to a pharmacist by word of mouth, telephone, or other means of communication.
  14. "Privileges" means the authority granted by a health care institution to a physician or physician assistant to practice medicine at the health care institution.
  15. "Service" means personal delivery or mailing by certified mail to a physician assistant, supervising physician, or applicant affected by a decision of the Board at the physician assistant's, supervising physician's, or applicant's last known residence or place of business.
  16. "State fiscal year" means from July 1 of one calendar year to June 30 of the next calendar year.
  17. "Substance use disorder" means the maladaptive pattern of the use of a drug, alcohol, or chemical leading to effects that are detrimental to an individual's physical or mental health.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Amended effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-102. Time-frames for Licenses and Approvals**

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for a regular license or renewal license is set forth in Table 1.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for a regular license or renewal license is set forth in Table 1 and begins on the date the Board receives an application.
1. If the application is not administratively complete, the Board shall send a deficiency notice to the applicant.
    - a. The deficiency notice shall state each deficiency and the information needed to complete the application.
    - b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Board the missing information specified in the deficiency notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.
    - c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
  2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) for a regular license or renewal license is set forth in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.

1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the request until the Board receives the information.
  2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1.
  3. The Board shall issue a written notice of denial of a license or license renewal if the Board determines that the applicant does not meet all of the substantive criteria required by statute or this Chapter for licensure or license renewal.
  4. If the applicant meets all of the substantive criteria required by statute and this Chapter for a license or license renewal, the Board shall issue the license or license renewal to the applicant.
- D.** In computing any period of time prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays, Sundays, and holidays. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the date of mailing.

**Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

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

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Regular License including schedule II or schedule III controlled substances approval R4-17-203	120	30	365	90	270
License Renewal R4-17-206	30	30	Not later than Sept. 30 of each year	Not applicable	Not applicable

**Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).



**ARTICLE 2. PHYSICIAN ASSISTANT LICENSURE****R4-17-201. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-201 renumbered to R4-17-202; new Section adopted effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-202. Examination**

- A.** An applicant for a regular license as a physician assistant shall pass the PANCE or PANRE.
- B.** An applicant for a regular license who has not passed the PANCE within six years preceding the date of the application shall submit documentation that shows the applicant passed the PANRE within six years preceding the date of the application.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section R4-17-202 renumbered from R4-17-201 and amended effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-203. Regular License Application**

- A.** An applicant for a regular license shall submit a completed application to the Board that includes:
  - 1. The applicant's:
    - a. First, last, and middle name;
    - b. Every other name used by the applicant;
    - c. Social Security number;
    - d. Practice address and telephone number;
    - e. Mailing address, if different from the practice address;
    - f. Home address and telephone number; and
    - g. Birth date and city or country of birth;
  - 2. The name and address of the approved program completed by the applicant and the date of completion;
  - 3. The name of each state or province in which the applicant has ever been certified, registered, or licensed as a physician assistant, including the certificate, registration, or license number, and current status;
  - 4. Whether the applicant has practiced as a physician assistant since graduation from a physician assistant program or for 10 continuous years before the date the application was submitted to the Board and if not, an explanation;
  - 5. A questionnaire that includes answers to the following:
    - a. Whether the applicant has had an application for a certificate, registration, or license refused or denied by any licensing authority, and if so, an explanation;
    - b. Whether the applicant has had the privilege of taking an examination for a professional license refused or denied by any entity, and if so, an explanation;
    - c. Whether the applicant has ever resigned or been requested to resign, been suspended or expelled from, been placed on probation, or been fined while enrolled in an approved program in a medical school or a postsecondary educational program, and if so, an explanation;
    - d. Whether, while attending an approved program, the applicant has ever had any action taken against the applicant by an approved program, resigned, or been asked to leave the approved program for any amount of time, and if so, an explanation;
    - e. Whether the applicant has ever surrendered a health professional license, and if so, an explanation;

- f. Whether the applicant has ever had a health professional license suspended or revoked, or whether any other disciplinary action has ever been taken against a health professional license held by the licensee, and if so, an explanation;
- g. Whether the applicant is currently under investigation by any health profession regulatory authority, healthcare association, licensed health care institution, or there are any pending complaints or disciplinary actions against the applicant, and if so, an explanation;
- h. Whether the applicant has ever had any action taken against the applicant's privileges, including termination, resignation, or withdrawal by a health care institution or health profession regulatory authority, and if so, an explanation;
- i. Whether the applicant has ever had a federal or state authority take any action against the applicant's authority to prescribe, dispense, or administer controlled substances including revocation, suspension, denial, or whether the applicant ever surrendered such authority in lieu of any of these actions, and if so, an explanation;
- j. Whether the applicant has ever been charged with, convicted of, pleaded guilty to, or entered into a plea of no contest to a felony or misdemeanor involving moral turpitude or has been pardoned or had a record expunged or vacated, and if so, an explanation;
- k. Whether the applicant has ever been charged with or convicted of a violation of any federal or state drug statute, rule, or regulation, regardless of whether a sentence was or was not imposed, and if so, an explanation;
- l. Whether the applicant, within the last 10 years from the date of the application, has had a judgment or a settlement entered against the applicant in a medical malpractice suit, and if so, an explanation;
- m. Whether the applicant has ever been court-martialed or discharged other than honorably from any branch of military service, and if so, an explanation;
- n. Whether the applicant has ever been involuntarily terminated from a health professional position, resigned, or been asked to leave the health care position, and if so, an explanation;
- o. Whether the applicant has ever been convicted of insurance fraud or received a sanction, including limitation, suspension, or removal from practice, imposed by any state or the federal government, and if so, an explanation; and
- p. Whether the applicant, within the last three years before the date of the application, has completed 45 hours in pharmacology or clinical management of drug therapy or is certified by a national commission on the certification of physician assistants or its successor;
- 6. A confidential questionnaire that includes answers to the following:
  - a. Whether the applicant, within the last five years before the date of the application, has been diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
  - b. Whether the applicant is currently being treated by a health professional or, within five years from the date of the application, has been treated by a health professional for substance use disorder or partici-

pated in a rehabilitation program for a substance use disorder, and if so, an explanation that includes:

- i. The name of each health professional or health care institution that addressed the substance use disorder and a discharge summary that includes progress made by the applicant; or
- ii. A copy of the confidential agreement or order issued by a health professional or health care institution, if applicable; and

- c. Whether the applicant currently has any disease or condition, including a behavioral health illness or condition, substance use disorder, physical disease or condition that interferes with the applicant's ability to perform health care tasks authorized by A.R.S. § 32-2531 and if so, an explanation;

7. Consistent with the Board's statutory authority, such other information as the Board may require to fully evaluate the applicant; and

8. A sworn statement that complies with A.R.S. § 32-2522(C).

**B.** In addition to the requirements in subsection (A), an applicant shall submit the following to the Board:

1. Documentation of citizenship or alien status that conforms to A.R.S. § 41-1080;
2. Documentation of a legal name change if the applicant's legal name is different from that shown on the document submitted in accordance with subsection (B)(1);
3. A form provided by the Board and completed by the applicant that lists all current or past employment with health professionals or health care institutions within five years before the date of application or since graduation from a physician assistant program, if less than five years, including each health professional's or health care institution's name, address, and dates of employment;
4. If the applicant has more than one malpractice settlement or judgment against the applicant within 10 years from the date of the application, a form provided by the Board for each malpractice settlement or judgment against the applicant that includes:
  - a. The applicant's name;
  - b. A description of the event that led to the malpractice settlement or judgment including:
    - i. The patient's name, age, and sex;
    - ii. The date of occurrence;
    - iii. Location of occurrence; and
    - iv. A detailed narrative of the event;
  - c. The amount of the settlement or judgment;
  - d. The date the settlement was entered into or judgment was made;
  - e. The amount of the settlement or judgment attributed to the applicant; and
  - f. Whether any state medical board has investigated the matter; and
5. The fee required in R4-17-204.

**C.** In addition to the requirements in subsections (A) and (B), an applicant shall have the following directly submitted to the Board:

1. A copy of the applicant's certificate of successful completion of the NCCPA examination and the applicant's examination score provided by the NCCPA;
2. An approved program form provided by the Board, completed and signed by the director or administrator of the approved program that granted the applicant a physician assistant degree, that includes the:
  - a. Applicant's full name,
  - b. Type of degree earned by the applicant,

- c. Name of the physician assistant program completed by the applicant,
- d. Starting and ending dates, and
- e. Date the applicant's degree was granted.

**D.** When the Board issues a regular license to an applicant, the Board is also approving the applicant to issue prescriptions or dispense or issue schedule II or schedule III controlled substances.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-204. Fees**

The Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

1. License application - \$125.00;
2. Regular license - \$185.00, prorated for each month remaining in the annual period;
3. Regular license renewal - \$185.00 if application is post-marked no later than July 1;
4. Penalty for late renewal - \$100.00;
5. Duplicate license - \$25.00;
6. Copies of Board documents - \$1.00 for first three pages, \$.25 for each additional page;
7. Medical Directory (CD-ROM) - \$30.00;
8. Data Disk - \$100.00; and
9. License verification - \$10.00.

**Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section adopted effective April 22, 1998 (Supp. 98-2). Section repealed; new Section adopted by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-205. Continuing Medical Education**

**A.** A licensee who is unable to complete 20 hours of continuing medical education for any of the reasons in A.R.S. § 32-2523(E) may submit a written request to the Board for an extension no later than 30 days before expiration of the license that contains:

1. The name, address, and telephone number of the licensee;
2. The reason for the request;
3. The date by which the continuing medical education will be completed; and
4. The signature of the licensee.

**B.** The Board shall send a written notice of approval or denial of the extension request within seven days from the date of receipt of the request.

**Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-206. License Renewal**

**A.** To renew a license, a licensee shall submit a completed application to the Board that includes:

1. An application form that contains the licensee's:
  - a. First and last names and middle initial;
  - b. Arizona license number;
  - c. Office, mailing, e-mail, and home addresses;
  - d. Office, mobile, and home phone numbers;
2. A questionnaire that includes answers to the following since the last renewal date:

- a. Whether the licensee has had an application for a certificate, registration, or license refused or denied by any licensing authority, and if so, an explanation;
  - b. Whether the licensee has had the privilege of taking an examination for a professional license refused or denied by any entity, and if so, an explanation;
  - c. Whether the licensee has voluntarily surrendered a health care professional license, and if so, an explanation;
  - d. Whether the licensee has had a health professional license suspended or revoked, or whether any other disciplinary action has been taken against a health professional license held by the licensee, and if so, an explanation;
  - e. Whether the licensee is currently under investigation by any health profession regulatory authority, healthcare association, licensed health care institution, or there are any pending complaints or disciplinary actions against the applicant, and if so, an explanation;
  - f. Whether the licensee has had any action taken against the applicant's privileges, including termination, resignation, or withdrawal by a health care institution or health profession regulatory authority, and if so, an explanation;
  - g. Whether the licensee has had a federal or state authority take any action against the licensee's authority to prescribe, dispense, or administer controlled substances including revocation, suspension, denial, or whether the applicant surrendered such authority in lieu of any of these actions, and if so, an explanation;
  - h. Whether the licensee has been charged with, convicted of, pleaded guilty to, or entered into a plea of no contest to a felony or misdemeanor involving moral turpitude or has been pardoned or had a record expunged or vacated, and if so, an explanation;
  - i. Whether the licensee has been court-martialed or discharged other than honorably from any branch of military service, and if so, an explanation;
  - j. Whether the licensee has been involuntarily terminated from a health professional position with any city, county, state or federal government, and if so, an explanation;
  - k. Whether the licensee has been convicted of insurance fraud or a state or the federal government has sanctioned or taken any action against the licensee, such as suspension or removal from practice, and if so, an explanation;
3. Consistent with the Board's statutory authority, such other information as the Board may require to fully evaluate the licensee;
  4. A dated and sworn statement by the licensee verifying that during the past state fiscal year the licensee completed a minimum of 20 hours of Category I continuing medical education required by A.R.S. § 32-2523;
  5. The fee required in R4-17-204; and
  6. A confidential questionnaire that includes answers to the following:
    - a. Whether the licensee, since the last renewal date, has been diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation;
    - b. Whether the licensee is currently being treated or has been treated since the last renewal date for substance use disorder or participated in a rehabilitation program, and if so, an explanation that includes:
      - i. The name of each health professional or health care institution that addressed the substance use disorder and a discharge summary that includes progress; or
      - ii. A copy of the confidential agreement or order issued by a health professional or health care institution, if applicable; and
- c. Whether the licensee currently has any disease or condition including a behavioral health illness or condition, substance abuse disorder, physical disease or condition that interferes with the licensee's ability to perform health care tasks authorized by A.R.S. § 32-2531 and if so, an explanation.
- B.** The Board may randomly select a number of statements of completion of continuing education to verify the accuracy of the statements and the acceptability of the Category I continuing medical education attended. Physician assistants whose statements have been selected shall submit any additional information requested by the Board to assist in the verification.

**Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-207. Denial of License or Extension to Complete Continuing Education**

An applicant for a license who is denied the license or a physician assistant who is denied an extension to complete continuing medical education may request a hearing to contest the matter by filing a written notice with the Board within 30 days of receipt of notice of the Board's action. A hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and Article 10.

**Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-208. Expired****Historical Note**

Adopted effective April 22, 1998 (Supp. 98-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 1569, effective March 31, 2005 (Supp. 05-2).

**ARTICLE 3. REPEALED****R4-17-301. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-301 renumbered to R4-17-302; new Section R4-17-301 adopted effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-302. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section repealed; new Section renumbered from R4-17-301 and amended effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-303. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section renumbered to R4-17-304; new Section R4-17-303 adopted effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-304. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-304 renumbered to R4-17-305; new Section R4-17-304 renumbered from R4-17-303 and amended effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-305. Repealed****Historical Note**

New Section R4-17-305 renumbered from R4-17-304 and amended effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**ARTICLE 4. REGULATION****R4-17-401. Expired****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-401 renumbered to R4-17-402; new Section R4-17-401 adopted effective April 22, 1998 (Supp. 98-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 1569, effective March 31, 2005 (Supp. 05-2).

**R4-17-402. Repealed****Historical Note**

Adopted effective July 8, 1986 (Supp. 86-4). Section R4-17-402 renumbered to R4-17-403; new Section R4-17-402 renumbered from R4-17-401 and amended effective April 22, 1998 (Supp. 98-2). Section repealed by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**R4-17-403. Rehearing or Review**

- A.** Except as provided in subsection (B), a party who is aggrieved by a decision issued by the Board may file with the Board, no later than 30 days after service of the decision, a written request for rehearing or review of the decision, specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party or the party's attorney.
- B.** If the Board makes specific findings that the immediate effectiveness of the decision is necessary for the preservation of the public health and safety and determines that a rehearing or

review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review. If the Board issues the decision as a final decision, without an opportunity for a rehearing or review, the aggrieved party may make an application for judicial review within the time limits permitted for an application for judicial review of the Board's final decision under A.R.S. § 12-904.

- C.** A party filing a request for rehearing or review may amend the request at any time before it is ruled upon by the Board. Another party may file a response within 15 days after the date the request or amended request for rehearing is filed. The Board may require a party to file supplemental memoranda explaining the issues raised in the request or response and may permit oral argument.
- D.** The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the requesting party's rights:
  1. Irregularity in the Board's or administrative law judge's administrative proceedings or any order or abuse of discretion that deprived the party of a fair hearing;
  2. Misconduct of the Board, administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence, or other errors of law that occurred at the hearing;
  7. The decision is the result of passion or prejudice; or
  8. The decision or findings of fact are not justified by the evidence or are contrary to law.
- E.** The Board may affirm or modify a decision or grant rehearing or review on all or part of the issues for any of the reasons set forth in subsection (D). An order granting a rehearing or review shall specify each ground for the rehearing or review.
- F.** No later than 30 days after a decision is issued by the Board, the Board on its own initiative may order a rehearing or review for any reason in subsection (D).
- G.** When a request for rehearing or review is based on affidavits, a party shall serve the affidavits with the request. The opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the time for serving opposing affidavits for no more than 20 days for good cause shown or by written stipulation by the parties. The Board may permit reply affidavits.

**Historical Note**

New Section R4-17-403 renumbered from R4-17-402 and amended effective April 22, 1998 (Supp. 98-2). Amended by final rulemaking at 18 A.A.R. 2123, effective October 7, 2012 (Supp. 12-3).

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 19. BOARD OF NURSING**

(Authority: A.R.S. § 32-1602 et seq.)

**ARTICLE 1. DEFINITIONS AND TIME-FRAMES***New Article 1, consisting of R4-19-101, adopted effective July 19, 1995 (Supp. 95-3).**Article 1, consisting of R4-19-101 through R4-19-102, repealed effective July 19, 1995 (Supp. 95-3).*

## Section

R4-19-101. Definitions

R4-19-102. Time-frames for Licensure, Certification, or Approval

Table 1. Time-frames

**ARTICLE 2. PROFESSIONAL AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS***Article 2, consisting of R4-19-201 through R4-19-214, adopted effective July 19, 1995 (Supp. 95-3).*

## Section

R4-19-201. Organization and Administration

R4-19-202. Resources, Facilities, Services, and Records

R4-19-203. Administrator; Qualifications and Duties

R4-19-204. Faculty; Personnel Policies; Qualifications and Duties

R4-19-205. Students; Policies and Admissions

R4-19-206. Curriculum

R4-19-207. Application for Provisional Approval of a Nursing Program

R4-19-208. Application for Full Approval of a Nursing Program

R4-19-209. Nursing Program Change

R4-19-210. Renewal of Approval of Board-approved Nursing Programs

R4-19-211. Rescission of Approval

R4-19-212. Nationally Accredited Nursing Programs

R4-19-213. Voluntary Termination of a Nursing Program or a Refresher Program

R4-19-214. Approval of a Refresher Program

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

**ARTICLE 3. LICENSURE***Article 3, consisting of R4-19-301 through R4-19-308, adopted effective July 19, 1995 (Supp. 95-3).*

## Section

R4-19-301. Licensure by Examination

R4-19-302. Licensure by Endorsement

R4-19-303. Requirements for Credential Evaluation Service

R4-19-304. Temporary License

R4-19-305. License Renewal

R4-19-306. Inactive License

R4-19-307. Application for a Duplicate License

R4-19-308. Change of Name or Address

R4-19-309. School Nurse Certification Requirements

R4-19-310. Certified Registered Nurse

R4-19-311. Nurse Licensure Compact

R4-19-312. Practice Requirement

**ARTICLE 4. REGULATION***Article 4, consisting of R4-19-401 through R4-19-404, adopted effective July 19, 1995 (Supp. 95-3).*

## Section

R4-19-401. Standards Related to Licensed Practical Nurse Scope of Practice

R4-19-402. Standards Related to Registered Nurse Scope of Practice

R4-19-403. Unprofessional Conduct

R4-19-404. Re-issuance or Subsequent Issuance of License

R4-19-405. Board-ordered Evaluations

**ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE**

## Section

R4-19-501. Categories and Specialty Areas of Advanced Practice Registered Nursing

R4-19-502. Requirements for Advanced Practice Registered Nursing Programs

R4-19-503. Application for Approval of an Advanced Practice Registered Nursing Program; Approval by Board

R4-19-504. Rescission of Approval of an Advanced Practice Registered Nursing Program

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

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

R4-19-507. Temporary Advanced Practice Certificate

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

R4-19-509. Delegation to Medical Assistants

R4-19-510. Expired

R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts

R4-19-512. Prescribing Drugs and Devices

R4-19-513. Dispensing Drugs and Devices

R4-19-514. Scope of Practice of the Clinical Nurse Specialist

R4-19-515. Repealed

R4-19-516. Repealed

**ARTICLE 6. RULES OF PRACTICE AND PROCEDURE***Article 6, consisting of R4-19-601 through R4-19-615, adopted effective October 10, 1996 (Supp. 96-4).*

## Section

R4-19-601. Expired

R4-19-602. Letter of Concern

R4-19-603. Representation

R4-19-604. Notice of Hearing; Response

R4-19-605. Expired

R4-19-606. Expired

R4-19-607. Recommended Decision

R4-19-608. Rehearing or Review of Decision

R4-19-609. Effectiveness of Orders

R4-19-610. Expired

R4-19-611. Expired

R4-19-612. Renumbered

R4-19-613. Expired

R4-19-614. Renumbered

R4-19-615. Renumbered

**ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES**

*Article 7, consisting of R4-19-701 through R4-19-706, adopted effective October 10, 1996 (Supp. 96-4).*

## Section

- R4-19-701. Expired
- R4-19-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact
- R4-19-703. Oral Proceedings
- R4-19-704. Petition for Altered Effective Date
- R4-19-705. Written Criticism of an Existing Rule
- R4-19-706. Renumbered

**ARTICLE 8. CERTIFIED NURSING ASSISTANTS**

*Article 8, consisting of Sections R4-19-801 through R4-19-815, adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1).*

## Section

- R4-19-801. Standards for Nursing Assistant Training Programs
- R4-19-802. Curriculum
- R4-19-803. Initial Approval of Nursing Assistant Training Programs
- R4-19-804. Renewal of Approval of Nursing Assistant Training Programs
- R4-19-805. Deficiencies and Rescission of Program Approval, Voluntary Termination, Disciplinary Action, and Reinstatement
- R4-19-806. Nursing Assistant Certification by Examination
- R4-19-807. Nursing Assistant Certification by Endorsement
- R4-19-808. Temporary Certificate
- R4-19-809. Certified Nursing Assistant Certificate Renewal
- R4-19-810. Certified Nursing Assistant Register
- R4-19-811. Application for Duplicate Certificate
- R4-19-812. Change of Name or Address
- R4-19-813. Performance of Nursing Assistant Tasks
- R4-19-814. Standards of Conduct for Certified Nursing Assistants
- R4-19-815. Reinstatement or Issuance of a Nursing Assistant Certificate

**ARTICLE 1. DEFINITIONS AND TIME-FRAMES****R4-19-101. Definitions**

In addition to the definitions in A.R.S. § 32-1601, in this Chapter:

“Abuse” means a misuse of power or betrayal of trust, respect, or intimacy by a nurse, nursing assistant, or applicant that causes or is likely to cause physical, mental, emotional, or financial harm to a client.

“Administer” means the direct application of a medication to the body of a patient by a nurse, whether by injection, inhalation, ingestion, or any other means.

“Applicant” means a person seeking licensure, certification, prescribing, or prescribing and dispensing privileges, or an entity seeking approval or re-approval, if applicable, of a:

- CNS or RNP nursing program,
- Credential evaluation service,
- Nursing assistant training program,
- Nursing program,
- Nursing program change, or
- Refresher program.

“Approved national nursing accrediting agency” means an organization recognized by the United States Department of Education as an accrediting agency for a nursing program.

“Assign” means a nurse designates nursing activities to be performed by another nurse that are consistent with the other nurse’s scope of practice.

“Certificate or diploma in practical nursing” means the document awarded to a graduate of an educational program in practical nursing.

“Client” means a recipient of care and may be an individual, family, group, or community.

“Clinical instruction” means the guidance and supervision provided by a nursing program faculty member or NATCEP instructor while a student is providing client care.

“CNA” means a certified nursing assistant, as defined in A.R.S. § 32-1601(14).

“CNS” means clinical nurse specialist, as defined in A.R.S. § 32-1601(6).

“Collaborate” means to establish a relationship for consultation or referral with one or more licensed physicians on an as-needed basis. Supervision of the activities of a registered nurse practitioner by the collaborating physician is not required.

“Contact hour” means a unit of organized learning, which may be either clinical or didactic and is either 60 minutes in length or is otherwise defined by an accrediting agency recognized by the Board.

“Continuing education activity” means a course of study related to nursing practice that is awarded contact hours by an accrediting agency recognized by the Board, or academic credits in nursing or medicine by a regionally or nationally accredited college or university.

“CRNA” means a certified registered nurse anesthetist who provides anesthesia services under A.R.S. § 32-1661.

“DEA” means the federal Drug Enforcement Administration.

“Dispense” means to package, label, and deliver one or more doses of a prescription-only medication in a suitable container for subsequent use by a patient.

“Dual relationship” means a nurse or CNA simultaneously engages in both a professional and nonprofessional relationship with a patient or resident that is avoidable, non-incidental, and results in the patient being exploited financially, emotionally, or sexually.

“Endorsement” means the procedure for granting an Arizona nursing license to an applicant who is already licensed as a nurse in another state or territory of the United States and has passed an exam as required by A.R.S. §§ 32-1633 or 32-1638 or an Arizona nursing assistant certificate to an applicant who is already listed on a nurse aide register in another state or territory of the United States.

“Episodic nursing care” means nursing care at nonspecific intervals that is focused on the current needs of the individual.

“Failure to maintain professional boundaries” means any conduct or behavior of a nurse or CNA that, regardless of the nurse’s or CNA’s intention, is likely to lessen the benefit of care to a patient or resident or a patient’s or resident’s family or places the patient, resident or the patient’s or resident’s family at risk of being exploited financially, emotionally, or sexually;

## Board of Nursing

“Full approval” means the status granted by the Board when a nursing program, after graduation of its first class, demonstrates the ability to provide and maintain a program in accordance with the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter.

“Good standing” means the license of a nurse, or the certificate of a nursing assistant, is current, and the nurse or nursing assistant is not presently subject to any disciplinary action, consent order, or settlement agreement.

“Independent nursing activities” means nursing care within an RN’s scope of practice that does not require authorization from another health professional.

“Initial approval” means the permission, granted by the Board, to an entity to establish a nursing assistant training program, after the Board determines that the program meets the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter.

“Licensure by examination” means the granting of permission to practice nursing based on an individual’s passing of a prescribed examination and meeting all other licensure requirements.

“LPN” means licensed practical nurse.

“NATCEP” means Nurse Aide Training and Competency Evaluation Program and includes both the nursing assistant training program and the required certification exam.

“NCLEX” means the National Council Licensure Examination.

“Nurse” means a licensed practical or registered nurse.

“Nursing diagnosis” means a clinical judgment, based on analysis of comprehensive assessment data, about a client’s response to actual and potential health problems or life processes. Nursing diagnosis statements include the actual or potential problem, etiology or risk factors, and defining characteristics, if any.

“Nursing practice” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined health goals, and evaluating responses to care and treatment.

“Nursing process” means applying problem-solving techniques that require technical and scientific knowledge, good judgment, and decision-making skills to assess, plan, implement, and evaluate a plan of care.

“Nursing program” means a formal course of instruction designed to prepare its graduates for licensure as registered or practical nurses.

“Nursing program administrator” means a nurse educator who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter and has the administrative responsibility and authority for the direction of a nursing program.

“Nursing program faculty member” means an individual working full or part time within a nursing program who is responsible for either developing, implementing, teaching, evaluating, or updating nursing knowledge, clinical skills, or curricula.

“Nursing-related activities or duties” means client care tasks for which education is provided by a basic nursing assistant training program.

“P & D” means prescribing and dispensing.

“Parent institution” means the educational institution in which a nursing program or nursing assistant training program is conducted.

“Patient” means an individual recipient of care.

“Pharmacology” means the science that deals with the study of drugs.

“Physician” means a person licensed under A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 17, or 29, or by a state medical board in the United States.

“Preceptor” means a registered nurse or other health professional who meets the requirements of A.R.S. Title 32, Chapter 15 and this Chapter who instructs, supervises and evaluates a licensee, clinical nurse specialist, nurse practitioner or pre-licensure nursing student, for a defined period.

“Preceptorship” means a clinical learning experience by which a learner enrolled in a registered nursing program, nurse refresher program, clinical nurse specialist, or registered nurse practitioner program or as part of a Board order provides nursing care while assigned to a health professional who holds a license or certificate equivalent to or higher than the level of the learner’s program or in the case of a nurse under Board order, meets the qualifications in the Board order.

“Prescribe” means to order a medication, medical device, or appliance for use by a patient.

“Proposal approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to proceed with an application for provisional approval to establish a pre-licensure nursing program in Arizona.

“Provisional approval” means that an institution has met the standards provided by A.R.S. Title 32, Chapter 15 and this Chapter to implement a pre-licensure nursing program in Arizona.

“Refresher program” means a formal course of instruction designed to provide a review and update of nursing theory and practice.

“Regionally accredited” means an educational institution is accredited by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges.

“Register” means a listing of Arizona certified nursing assistants maintained by the Board that includes the following about each nursing assistant:

Identifying demographic information;

Date placed on the register;

Date of initial and most recent certification, if applicable; and

Status of the nursing assistant certificate, including findings of abuse, neglect, or misappropriation of property made by the Arizona Department of Health Services, sanctions imposed by the United States Department of Health and Human Services, and disciplinary actions by the Board.

“Resident” means a patient who receives care in a long term care facility or other residential setting.

“RN” means registered nurse.

“RNP” means a registered nurse practitioner as defined in A.R.S. § 32-1601(19).

“SBTPE” means the State Board Test Pool Examination.

“Self-study” means a written self-evaluation conducted by a nursing program to assess the compliance of the program with the standards listed in R4-19-201 through R4-19-206.

“School nurse” means a registered nurse who is certified under R4-19-309.

“Standards related to scope of practice” means the expected actions of any nurse who holds the identified level of licensure.

“Supervision” means the direction and periodic consultation provided to an individual to whom a nursing task or patient care activity is delegated.

“Traineeship” means a clinical learning experience where a student enrolled in an approved nursing assistant training program provides care for residents in a long term care facility while working with a CNA employed by the facility under the supervision of an RN or LPN.

“Unlicensed assistive personnel” or “UAP” means a CNA or any other unlicensed person, regardless of title, to whom nursing tasks are delegated.

#### Historical Note

Former Glossary of Terms; Amended effective Nov. 17, 1978 (Supp. 78-6). Former Section R4-19-01 repealed, new Section R4-19-01 adopted effective February 20, 1980 (Supp. 80-1). Amended paragraphs (1) and (7), added paragraphs (9) through (25) effective July 16, 1984 (Supp. 84-4). Former Section R4-19-01 renumbered as Section R4-19-101 (Supp. 86-1). Amended effective November 18, 1994 (Supp. 94-4). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended effective December 22, 1995 (Supp. 95-4). Amended effective November 25, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 1712, effective April 4, 2001 (Supp. 01-2). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citations in the definitions of “CNA” “CNS” and “RNP” have been updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

#### R4-19-102. Time-frames for Licensure, Certification, or Approval

##### A. In this Section:

1. “Administrative completeness” or “administratively complete” means Board receipt of all application components required by statute or rule and necessary to begin the substantive review time-frame.
2. “Application packet” means an application form provided by the Board and the documentation necessary to establish an applicant’s qualifications for licensure, certification, or approval.
3. “Comprehensive written request for additional information” means written communication after the administrative completeness time-frame by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant that additional information, including missing documents is

needed before the Board can grant the license. The written communication shall:

- a. Contain a list of information required by statute or rule and necessary to complete the application or grant the license, and
  - b. Inform the applicant that the request suspends the running of days within the time-frame, and
  - c. Be effective on the date of issuance which is:
    - i. The date of its postmark, if mailed;
    - ii. The date of delivery, if delivered in person by a Board employee or agent; or
    - iii. The date of delivery to the electronic address if delivered electronically.
4. “Deficiency notice” means written communication by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant that additional information, including missing documents, is needed to complete the application. The written communication shall:
- a. Contain a list of information required by statute or rule and necessary to complete the application or grant the license;
  - b. Inform the applicant that the request suspends the running of days within the time-frame; and
  - c. Be effective on the date of issuance which is:
    - i. The date of its postmark, if mailed;
    - ii. The date of delivery, if delivered in person by a Board employee or agent; or
    - iii. The date of delivery to the electronic address if delivered electronically.
5. “Notice of administrative completeness” means written communication by the Board to an applicant in person or at the mailing or electronic address identified on the application notifying the applicant the application contains all information required by statute or rule to complete the application.
6. “Overall time-frame” has the same meaning as A.R.S. § 41-1072(2).
7. “Substantive review time-frame” has the same meaning as A.R.S. § 41-1072(3).
- B.** In computing the time-frames in this Section, the day of the act or event from which the designated period begins to run is not included. The last day of the period is included unless it is a Saturday, Sunday, or official state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or official state holiday.
- C.** For each type of licensure, certification, or approval issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1. An applicant may submit a written request to the Board for an extension of time in which to provide a complete application. The request for an extension of time shall be submitted to the Board office before the deadline for submission of a complete application and shall state the reason that the applicant is unable to comply with the time-frame requirements in Table 1 and the amount of additional time requested. The Board may grant an extension of time based on whether the Executive Director of the Board finds that the applicant is unable to comply within the time-frame due to circumstances beyond the applicant’s control and that the additional information can reasonably be supplied during the extension of time.
- D.** For each type of licensure, certification, or approval issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins to run when the Board receives an application packet.



## Board of Nursing

1. If the application packet is not administratively complete, the Board shall send a deficiency notice to the applicant. The time for the applicant to respond to a deficiency notice begins to run on the date the deficiency notice is issued.
  - a. The deficiency notice shall list each deficiency.
  - b. The applicant shall submit to the Board the missing information listed in the deficiency notice within the period specified in Table 1 for responding to a deficiency notice. The time-frame for the Board to complete the administrative review is suspended until the Board receives the missing information.
  - c. If an applicant fails to provide the missing information listed in the deficiency notice within the period specified in Table 1, the Board shall close the applicant's file and send a notice to the applicant by U.S. mail and electronically, if an electronic address is included in the application.
  - d. If the applicant is the subject of an investigation, the Board may continue to process the application. Failure of the applicant to supply the requested information may result in denial of the license or certificate based on information gathered during the investigation.
2. If the application packet is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
3. If the Board issues a license, certificate, or approval during the administrative completeness review time-frame, the Board shall not send a separate written notice of administrative completeness.
- E.** For each type of licensure, certification, or approval issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins to run on the date the notice of administrative completeness is issued.
  1. During the substantive review time-frame, an applicant may make a request to withdraw an application packet. The Board may deny the request to withdraw an application packet if the applicant is the subject of an investigation, based on information gathered during the investigation.
  2. If an applicant discloses or the Board receives allegations of unprofessional conduct as described in A.R.S. § 32-1601 or this Chapter, the Board shall review the allegations and may investigate the applicant. The Board may require the applicant to provide additional information as prescribed in subsection (E)(3) based on its assessment of whether the conduct is or might be harmful or dangerous to the health of a client or the public.
  3. During the substantive review time-frame, the Board may make one comprehensive written request for additional information. The applicant shall submit the additional information within the period specified in Table 1. The time-frame for the Board to complete the substantive review of the application packet is suspended from the date the comprehensive written request for additional information is issued until the Board receives the additional information.
  4. If the applicant fails to provide the additional information identified in the comprehensive written request for additional information within the time specified in Table 1, the Board shall close the applicant's file and send a notice to the applicant by U.S. mail and electronically, if an electronic address is included in the application. The Board may continue to process the application if the applicant is the subject of an investigation. Failure of the applicant to supply the requested information may result in denial of the license or certificate based on information gathered during the investigation.
  5. The Board shall grant licensure, conditional licensure, limited licensure, certification, or approval to an applicant:
    - a. Who meets the substantive criteria for licensure, certification, or approval required by A.R.S. Title 32, Chapter 15 and this Chapter; and
    - b. Whose licensure, certification, or approval is in the best interest of the public.
  6. The Board shall deny licensure, certification, or approval to an applicant:
    - a. Who fails to meet the substantive criteria for licensure, certification, or approval required by A.R.S. Title 32, Chapter 15 and this Chapter; or
    - b. Who has engaged in unprofessional conduct as described in A.R.S. § 32-1601 or this Chapter; and
    - c. Whose licensure, certification, or approval is not in the best interest of the public.
  7. The Board's written order of denial shall meet the requirements of A.R.S. § 41-1076. The applicant may request a hearing by filing a written request with the Board within 30 days of receipt of the Board's order of denial. The Board shall conduct hearings in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-02 renumbered and amended as Section R4-19-102 effective February 21, 1986 (Supp. 86-1).

Section repealed effective July 19, 1995 (Supp. 95-3).

New Section adopted April 20, 1998 (Supp. 98-2).

Amended by final rulemaking at 7 A.A.R. 1712, effective April 4, 2001 (Supp. 01-2). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4).

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

Type of License, Certificate, or Approval	Applicable Statute and Section	Board Overall Time-frame Without Investigation	Board Overall Time-frame With Investigation	Board Administrative Completeness Review Time-frame	Applicant Time to Respond to Deficiency Notice	Board Substantive Review Time-frame Without Investigation	Board Substantive Review Time-frame With Investigation	Applicant Time to Respond to Comprehensive Written Request
Nursing Program Proposal Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120

## Board of Nursing

Nursing Program Provisional Approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Full Approval or Re-approval	A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-208, R4-19-210	150	Not applicable	60	180	90	Not applicable	120
Nursing Program Change	A.R.S. § 32-1606(B)(1); R4-19-209	150	Not applicable	60	180	90	Not applicable	120
Refresher Program Approval or Re-approval	A.R.S. § 32-1606(B)(21); R4-19-214	150	Not applicable	60	180	90	Not applicable	120
CNS or RNP Nursing Program Approval or Re-approval	A.R.S. §§ 32-1606(B)(18), 32-1644; R4-19-503	150	Not applicable	60	180	90	Not applicable	120
Credential Evaluation Service Approval or Re-approval	A.R.S. §§ 32-1634.01(A)(1), 32-1634.02(A)(1), 32-1639.01(1), 32-1639.02(1); R4-19-303	150	Not applicable	60	180	90	Not applicable	120
Licensure by Exam	A.R.S. §§ 32-1606(B)(5), 32-1633, 32-1638, and R4-19-301	150	270	30	270	120	240	150
Licensure by Endorsement	A.R.S. §§ 32-1606(B)(5), 32-1634, 32-1639, and R4-19-302	150	270	30	270	120	240	150
Temporary License or Renewal	A.R.S. §§ 32-1605.01(B)(3), 32-1635, 32-1640; R4-19-304	60	90	30	60	30	60	90
License Renewal	A.R.S. §§ 32-1606(B)(5), 32-1642; R4-19-305	120	270	30	270	90	240	150
School Nurse Certification or Renewal	A.R.S. §§ 32-1606(A)(7) and (B)(13), 32-1643(A)(8); R4-19-309	150	270	30	270	120	240	150
Re-issuance or Subsequent Issuance of License	A.R.S. § 32-1664(O); R4-19-404	150	270	30	270	120	240	150
Registered Nurse Practitioner Certification or Renewal	A.R.S. §§ 32-1601(19), 32-1606(21); R4-19-505, R4-19-506	150	270	30	180	120	240	150
RNP Prescribing and Dispensing Privilege	A.R.S. § 32-1601(19); R4-19-511	150	270	30	270	120	240	150
CNS Certification or Renewal	A.R.S. §§ 32-1601(6), 32-1606(21); R4-19-505, R4-19-506	150	270	30	270	120	240	150
CRNA Prescribing Privilege	A.R.S. § 32-1601(13)(m); R4-19-515	150	270	30	270	120	240	150
Temporary RNP or CNS Certificate or Renewal	A.R.S. § 32-1635.01; R4-19-507	60	Not applicable	30	60	30	Not applicable	60
Nursing Assistant Training Programs Approval or Re-approval	A.R.S. § 32-1606(B)(11); R4-19-803, R4-19-804	120	Not applicable	30	180	90	Not applicable	120
Nursing Assistant Certification by Examination	A.R.S. §§ 32-1606(B)(11), 32-1647; R4-19-806	150	270	30	270	120	240	150

## Board of Nursing

Nursing Assistant Certification by Endorsement	A.R.S. §§ 32-1606(B)(11), 32-1648; R4-19-807	150	270	30	270	120	240	150
Temporary CNA Certificate or Renewal	A.R.S. § 1646(A)(5); R4-19-808	60	Not applicable	30	60	30	Not applicable	60
Nursing Assistant Certificate Renewal	A.R.S. § 32-1606(B)(11); R4-19-809	120	270	30	270	90	240	150
Re-issuance or Subsequent Issuance of a Nursing Assistant Certificate	A.R.S. § 32-1664(O); R4-19-815	150	270	30	270	120	240	150

**Historical Note**

Table 1 adopted effective April 20, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 1712, effective April 4, 2001 (Supp. 01-2). Table 1 amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citations in column two of "Registered Nurse Practitioner Certification or Renewal," "RNP Prescribing and Dispensing Privilege," and "CNS Certification or Renewal" have been updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

## **ARTICLE 2. PROFESSIONAL AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS**

### **R4-19-201. Organization and Administration**

- A.** The parent institution of a nursing program shall be accredited as a post-secondary institution, college, or university, by an accrediting body that is recognized as an accrediting body by the U.S. Department of Education.
- B.** A nursing program shall have a written statement of mission and goals consistent with those of the parent institution and compatible with current concepts in nursing education.
- C.** A nursing program shall be an integral part of the parent institution and shall have equivalent status with other academic units of the parent institution.
- D.** The parent institution shall center the administrative control of the nursing program in the nursing program administrator.
- E.** A nursing program shall provide an organizational chart that identifies the relationships, lines of authority, and channels of communication within the program, and between the program and the parent institution.
- F.** A nursing program shall have a written agreement between the program and each clinical agency where clinical experience is provided to the program's students that:
  1. Defines the rights and responsibilities of both the clinical agency and the nursing program,
  2. Lists the role and authority of the governing bodies of both the clinical agency and the nursing program,
  3. Allows faculty members of the program the right to participate in selecting learning experiences for students, and
  4. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.
- G.** A nursing program shall have written policies that provide a mechanism for student input into the development of academic policies and procedures and participation in the evaluation plan.
- H.** The parent institution shall appoint a nursing program administrator who meets the requirements of R4-19-203.
- I.** A nursing program shall have a written plan for the systematic evaluation of the total program. The plan shall include the methodology, frequency of evaluation, assignment of responsibility, and evaluative criteria. The following areas shall be evaluated:

1. Internal structure of the program, its relationship to the parent institution, and compatibility of program policies and procedures with those of the parent institution;
2. Mission and goals;
3. Curriculum;
4. Education facilities, resources, and services;
5. Clinical resources;
6. Student achievement of program educational outcomes;
7. Graduate performance on the licensing examination;
8. Faculty performance; and
9. Protection of patient safety.

- J.** A nursing program shall notify the Board of a vacancy or pending vacancy in the position of nursing program administrator within 15 days of the program's awareness of the vacancy or pending vacancy and do the following:

1. Appoint an interim administrator or a permanent administrator who meets the requirements of R4-19-203(A) within 15 days of the effective date of the vacancy, and
2. Notify the Board of the appointment of an interim or permanent administrator within 15 days of appointment and provide a copy of the administrator's credentials to the Board.

**Historical Note**

Former Section I, Part I; Amended effective January 20, 1975 (Supp. 75-1). Former Section R4-19-11 repealed, new Section R4-19-11 adopted effective February 20, 1980 (Supp. 80-1). Amended effective July 16, 1984 (Supp. 84-4). Former Section R4-19-11 renumbered as Section R4-19-201 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

### **R4-19-202. Resources, Facilities, Services, and Records**

- A.** The parent institution of a nursing program shall consider the size of the program faculty and number of program students and shall provide facilities for the program that meet the following requirements:
  1. A private office for the administrator of the nursing program;

2. Faculty offices that are conveniently located and comparable to other faculty offices of the parent institution;
  3. Space for private faculty-student conferences;
  4. Space for clerical staff, records, files, and equipment;
  5. Facilities including classrooms, laboratories, and conference rooms available at the time needed, and equivalent in size, number, and type to facilities provided by approved programs of equivalent size, or, in the case of no equivalent program, scaled relative to an approved program;
  6. Acoustics, lighting, ventilation, plumbing, heating and cooling, seating arrangements, location, storage, and supplies to simulate patient care equivalent to those provided by approved programs of equivalent size and scope, or in the case of no equivalent program, scaled relative to an approved program;
  7. Secretarial and clerical support personnel to assist the administrator and faculty;
  8. Access to a collection of educational materials and resources that are current and equivalent to materials and resources provided by an approved program of equivalent size or scope, or, in case of no equivalent program, scaled relative to an approved program.
- B.** A nursing program shall maintain current and accurate records of the following:
1. Student records, including admission materials, courses taken, grades received, scores in any standardized tests taken, and health and performance records;
  2. Faculty records, including Arizona professional nursing license number, evidence of fulfilling the requirements in R4-19-204, and performance evaluations or faculty employed by the parent institution for one or more years;
  3. Minutes of faculty and committee meetings;
  4. Administrative records and reports from accrediting agencies; and
  5. The statement of mission and goals, current curriculum, and course outlines.

#### Historical Note

Former Section I, Part II; Former Section R4-19-12 repealed, new Section R4-19-12 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-12 repealed, new Section R4-19-12 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-12 renumbered as Section R4-19-202 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

#### R4-19-203. Administrator; Qualifications and Duties

- A.** A nursing program shall appoint an administrator who holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 and:
1. For professional nursing programs, a graduate degree with a major in nursing; or
  2. For practical nursing programs, a baccalaureate degree with a major in nursing.
- B.** The administrator shall have comparable status with other program administrators in the parent institution and shall report directly to an academic officer of the institution.
- C.** The administrator shall:
1. Administer the nursing education program;

2. Facilitate and coordinate activities related to academic policies, personnel policies, curriculum, resources, facilities, services, and program evaluation;
  3. Prepare and administer the budget;
  4. Recommend candidates for faculty appointment, retention, and promotion;
  5. In addition to any other evaluation used by the parent institution, ensure that faculty are evaluated:
    - a. At least every three years,
    - b. By the nurse administrator or a nurse educator designated by the nurse administrator, and
    - c. In the areas of teaching ability and nursing knowledge and skills.
  6. Maintain, enforce, and evaluate written policies and procedures that require all students, faculty, and preceptors who participate in clinical practice settings to be physically and mentally able to provide safe client care; and
  7. Participate in activities that contribute to the governance of the parent institution.
- D.** The administrator of the nursing program shall not teach more than 45 contact hours per academic session.

#### Historical Note

Former Section I, Part III; Former Section R4-19-13 repealed, new Section R4-19-13 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-13 repealed, new Section R4-19-13 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-13 renumbered as Section R4-19-203 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

#### R4-19-204. Faculty; Personnel Policies; Qualifications and Duties

- A.** A nursing program shall implement personnel policies for didactic and clinical nursing faculty members that conform to those for other faculty members of the parent institution or provide a written explanation of any differences.
- B.** A nursing program shall provide the number of qualified faculty members comparable to that provided by approved programs of equivalent size and program type, or, in the case of no equivalent program, a number scaled relative to an approved program.
- C.** The parent institution of a nursing program shall ensure that the ratio of students to nursing faculty while involved in the care of patients is not more than ten to one.
- D.** The faculty shall supervise all students in clinical areas in accordance with the acuity of the patient population, clinical objectives, demonstrated competencies of the student, geographic placement of the student, and requirements established by the clinical agency.
- E.** The parent institution of a nursing program shall ensure that every professional nursing program faculty member holds a current Arizona registered nurse license in good standing or multi-state privilege to practice in Arizona under A.R.S., Title 32, Chapter 15 and that every faculty member meets one of the following:
1. If providing didactic instruction:
    - a. At least two years of experience as a professional nurse providing direct patient care; and
    - b. A graduate degree. The majority of the faculty members of a professional nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member

## Board of Nursing

shall hold a minimum of a baccalaureate degree in nursing; or

2. If providing clinical instruction, as defined in R4-19-206, only:
  - a. The requirements for didactic faculty, or
  - b. A baccalaureate degree with a major in nursing and at least three years of experience as a professional nurse providing direct patient care.
- F. The parent institution of a nursing program shall ensure that each practical nursing program faculty member has:
  1. A minimum of a baccalaureate degree with a major in nursing,
  2. A professional nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15, and
  3. At least two years of experience as a professional nurse providing direct patient care.
- G. The nursing faculty, together with the program administrator, shall:
  1. Develop, implement, and evaluate the program of learning; and
  2. Develop and implement standards for the admission, progression, and graduation of students.

**Historical Note**

Former Section I, Part IV; Former Section R4-19-14 repealed, new Section R4-19-14 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-14 repealed, new Section R4-19-14 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-14 renumbered as Section R4-19-204 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-205. Students; Policies and Admissions**

- A. A nursing program shall have written policies available to students and the public regarding admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, and dismissal.
- B. A nursing program shall have written policies available to students that address student rights, responsibilities, grievances, health, and safety.
- C. A nursing program shall provide accurate and complete information to all students and prospective students about the program including, but not limited to:
  1. The nature of the program, including course sequence, prerequisites, co-requisites and academic standards;
  2. The length of the program;
  3. The current cost of the program;
  4. The transferability of credits to other public and private educational institutions in Arizona; and
  5. Program teaching methods and supporting technology.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-15 repealed, new Section R4-19-15 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-15 renumbered as Section R4-19-205 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-206. Curriculum**

- A. For the purposes of this Section, "clinical instruction" means the guidance and supervision provided by a qualified faculty member or designee while a nursing student is providing patient care.
- B. A nursing program shall develop and implement a curriculum that includes level objectives, course objectives, measurable learning outcomes for each class session, and course content outlines for each course that:
  1. Reflect its mission and goals;
  2. Are logically consistent between and within courses;
  3. Are designed so that a student who completes the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in A.R.S. § 32-1601(16) and R4-19-401 for a practical nurse or A.R.S. § 32-1601(20) and R4-19-402 for a professional nurse.
- C. A nursing program shall provide for progressive sequencing of classroom and clinical instruction sufficient to meet the goals of the program.
  1. A registered nursing (RN) program shall provide clinical instruction that includes, at a minimum, selected and guided experiences that develop a student's ability to apply core principles of nursing in varied settings when caring for:
    - a. Adult and geriatric patients with acute, chronic, and complex, life-threatening, medical and surgical conditions;
    - b. Patients experiencing pregnancy and delivery;
    - c. Neonates, infants, and children;
    - d. Patients with mental, psychological, or psychiatric conditions; and
    - e. Patients with wellness needs.
  2. A practical nursing program (PN) shall provide clinical instruction that includes, at minimum, selected and guided experiences that develop an understanding of physiological, psychological, pathological, and basic nursing care needs when caring for:
    - a. Patients with medical and surgical conditions throughout the life span,
    - b. Patients experiencing pregnancy and delivery, and
    - c. Neonates, infants, and children in varied settings.
- D. A nursing program shall maintain at least a 75% NCLEX® passing rate for graduates taking the NCLEX-PN® or NCLEX-RN® for the first time within 12 months of graduation. The Board shall issue a notice of deficiency to any program that has a NCLEX® passing rate less than 75% for two consecutive calendar years.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-16 repealed, former Section R4-19-17 renumbered and amended as Section R4-19-16 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-16 renumbered as R4-19-206 (Supp. 86-1). Section repealed; new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citations in subsection (B)(3) were updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**R4-19-207. Application for Provisional Approval of a Nursing Program**

- A.** Before establishing a nursing program, a parent institution shall submit 20 copies of an application for proposal approval to the Board that includes the following information and documentation:
1. Name and address of the parent institution;
  2. Statement of intent to establish a nursing program, including the academic and licensure level of the program; and
  3. Proposal that includes, but is not limited to, the following information:
    - a. Documentation of the present and future need for the program in the state including availability of potential students and need for entry level nurses;
    - b. Potential effect on existing nursing programs in a 50-mile radius of the proposed program;
    - c. Organizational structure of the educational institution documenting the relationship of the nursing program within the institution;
    - d. Accreditation status of the parent institution;
    - e. Purpose, mission, and goals of the nursing program;
    - f. Availability of qualified administrator and faculty;
    - g. Number of budgeted faculty positions;
    - h. Source and description of clinical resources for the program;
    - i. Anticipated student population;
    - j. Documentation of adequate academic facilities and staff to support the nursing program;
    - k. Evidence of financial resources adequate for the planning, implementation, and continuation of the nursing program; and
    - l. Tentative time schedule for planning and initiating the nursing program and the intended date for entry of the first class into the program.
- B.** The Board shall grant proposal approval to any parent institution that demonstrates:
1. The need for a program,
  2. The resources to operate a program,
  3. The availability of students,
  4. The availability and resources to secure a qualified administrator and faculty, and
  5. Satisfaction of the accreditation requirements in R4-19-201(A).
- C.** A parent institution that is denied proposal approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for proposal approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D.** A parent institution that receives proposal approval may submit 20 copies of an application to the Board for provisional approval that includes the following information and documentation:
1. Name and address of parent institution; and
  2. Plan for compliance with R4-19-201 through R4-19-206, including but not limited to the following:
    - a. Name and qualifications of appointed administrator;
    - b. Names and qualifications of nursing faculty for the first semester or session of operation at least 60 days before classes begin;
    - c. Final program implementation plan;
    - d. Curriculum, including course outlines, program objectives, and learning outcomes;
    - e. Descriptions of available and proposed physical facilities with dates of availability; and

- f. List of available clinical facilities within the geographic area, including facility type, size, number of beds, and type of patients.

- E.** Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall grant provisional approval to a parent institution that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A parent institution that is denied provisional approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F.** The provisional approval of a nursing program expires 12 months from the date of the grant of provisional approval if a class of nursing students is not admitted by the nursing program within that time. The Board may rescind the provisional approval of a nursing program for a violation of any provision of this Article according to R4-19-211.
- G.** If a nursing program fails to apply for full approval within two years of graduating its first class of students, the Board shall rescind its provisional approval. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-17 renumbered and amended as Section R4-19-16 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-17 renumbered as R4-19-207 (Supp. 86-1). New Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-208. Application for Full Approval of a Nursing Program**

- A.** A nursing program seeking full approval shall submit an application that includes the following information and documentation:
1. Name and address of the parent institution,
  2. Date the nursing program graduated its first class of students, and
  3. Twenty copies of a self-study report that contains evidence the program is in compliance with R4-19-201 through R4-19-206.
- B.** Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall grant full approval for a maximum of five years or the accreditation period for nationally accredited programs governed by R4-19-212, to a nursing program that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A nursing program that is denied full approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- C.** A nursing program shall apply for full approval within a two-year period after graduating its first class or its provisional approval may be rescinded by the Board following notice and an opportunity for hearing.

**Historical Note**

Adopted effective July 19, 1995 (Supp. 95-3). Amended

## Board of Nursing

by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-209. Nursing Program Change**

- A.** A nursing program administrator shall receive approval from the Board before implementing any of the following nursing program changes:
1. Changing the mission or goals,
  2. Increasing or decreasing the length of the program,
  3. Adding or deleting a geographical location of the program,
  4. Increasing the student enrollment capacity by more than 20%,
  5. Changing the level of educational preparation provided, or
  6. Transferring the nursing program from one institution to another.
- B.** The administrator shall submit 20 copies of the following materials with the request for nursing program changes:
1. The rationale for the proposed change and the anticipated effect on the program administrator, faculty, students, resources, and facilities;
  2. A summary of the differences between the current practice and proposed change;
  3. A timetable for implementation of the change; and
  4. The methods of evaluation to be used to determine the effect of the change.
- C.** The Board shall approve a request for a nursing program change if the program demonstrates that it has the resources to implement the change and the change is consistent with R4-19-201 through R4-19-206. A nursing program that is denied approval of program changes may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-210. Renewal of Approval of Board-approved Nursing Programs**

- A.** An approved nursing program that is not accredited by an approved national nursing accrediting agency shall submit an application packet to the Board at least four months before the expiration of the current approval that includes the following:
1. Name and address of the parent institution,
  2. Current regional accreditation status,
  3. Copy of the current catalog of the parent institution,
  4. Copy of current nursing program policies, and
  5. Twenty copies of a self-study report that contains evidence of compliance with R4-19-201 through R4-19-206.
- B.** Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall renew program approval for a maximum of five years if the nursing program meets the criteria in R4-19-201 through R4-19-206 and if renewal is in the best interest of the public. The Board shall determine the term of approval that is in the best interest of the public.
- C.** If the Board denies renewal of approval, the nursing program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-211. Rescission of Approval**

- A.** The Board shall, upon determining that a nursing program or a refresher program is not in compliance with R4-19-201 through R4-19-214, provide to the administrator a written notice of deficiencies that establishes a reasonable time, based upon the number and severity of deficiencies, to correct the deficiencies. The time for correction may not exceed 18 months.
1. The administrator shall, within 30 days from the date of service of the notice of deficiencies, file a plan to correct each of the identified deficiencies after consultation with the Board or designated Board representative.
  2. The administrator may, within 30 days from the date of service of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
  3. If the Board's determination is not appealed or is upheld upon appeal, the Board shall conduct periodic evaluations of the program during the time of correction to determine whether the deficiencies have been corrected.
- B.** The Board shall, following a Board-conducted survey and report, rescind the approval of, or restrict admissions to a nursing program or refresher program if the program fails to comply with R4-19-201 through R4-19-214 within the time set by the Board in the notice of deficiencies served upon the program.
1. The Board shall serve the administrator with a written notice of proposed rescission of approval or restriction of admissions that states the grounds for the proposed action. The administrator shall have 30 days to submit a written request for a hearing to show cause why the proposed action should not occur. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
  2. Upon the effective date of a decision to rescind program approval, the nursing program shall immediately cease operation and be removed from the official approved-status listing. A nursing program that has been ordered to cease operations shall assist currently enrolled students to transfer to an approved nursing program.
- C.** In addition to the cause in subsection (B), if the Board determines that the effectiveness of instruction to students is impaired, the Board may rescind approval of or restrict admissions to a nursing program for any of the following causes:
1. For a program that was served with a notice of deficiencies within the preceding three years and timely corrected the noticed deficiencies, subsequent noncompliance with the standards in R4-19-201 through R4-19-214; or
  2. Failure to comply with orders of or stipulations with the Board within the time determined by the Board.

**Historical Note**

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

**R4-19-212. Nationally Accredited Nursing Programs**

- A.** An approved nursing program that is accredited by an approved national nursing accrediting agency shall submit to

the Board evidence of initial accreditation and shall submit evidence of continuing accreditation after each reaccreditation review.

- B.** The administrator shall submit to the Board any report from a national accrediting agency citing deficiencies or recommendations at the time the report is received by the nursing program.
- C.** The administrator of a nursing program shall notify the Board within 10 days of any change in accreditation status.
- D.** The administrator of a nursing program that loses its accreditation status or allows its accreditation status to lapse shall file an application for renewal of approval under R4-19-210 within 30 days of loss of or lapse in accreditation status.
- E.** Unless otherwise notified by the Board following receipt and review of the documents required by subsections (A) and (B), a nursing program continues to have full-approval status. The administrator of a nursing program that has its continuing approval-status rescinded by the Board may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding continuing full-approval status. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

#### Historical Note

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).

#### R4-19-213. Voluntary Termination of a Nursing Program or a Refresher Program

- A.** The administrator of a nursing program or a refresher program shall notify the Board within 15 days of a decision to voluntarily terminate the program. The administrator shall, at the same time, submit a written plan for terminating the nursing program or refresher program.
- B.** The administrator shall ensure that the nursing program or refresher program is maintained, including the nursing faculty, until the last student is transferred or completes the program.
- C.** Within 15 days after the termination of a nursing program or refresher program, the administrator shall notify the Board of the permanent location and availability of all program records.

#### Historical Note

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4).

#### R4-19-214. Approval of a Refresher Program

- A.** An applicant for approval of a refresher program for nurses whose licenses have been inactive or expired for five or more years, nurses under Board order to enroll in a refresher program, or nurses who have not met the requirements of R4-19-312 shall submit a completed application that provides all of the following information and documentation:
  1. Applicant's name, address, e-mail address, telephone number, and fax number;
  2. Proposed starting date for the program;
  3. Name and curriculum vitae of all instructors;
  4. Statement describing the facilities, staff, and resources that the applicant will use to conduct the refresher program;
  5. A program and participant evaluation plan that includes student evaluation of the course, instructor, and clinical experience; and
  6. Evidence of a curriculum that meets the requirements of subsection (B).

- B.** A refresher program shall provide:

1. A minimum of 40 hours of didactic instruction and 112 hours of supervised clinical practice for a licensed practical nurse program;
2. A minimum of 80 hours of didactic instruction and 160 hours of supervised clinical practice for a professional nurse program;
3. A planned and supervised clinical experience that is consistent with course goals and provides an opportunity for the student to demonstrate safe and competent application of program content. The student may spend up to 24 of the required clinical hours in a supervised lab setting;
4. Curriculum materials, including:
  - a. An overall program description including goals; and
  - b. Objectives, content, and hours allotted for each area of instruction;
5. Instruction in current nursing care concepts and skills including:
  - a. Nursing process;
  - b. Pharmacology, medication calculation, and medication administration;
  - c. Communication;
  - d. Critical thinking and clinical decision making;
  - e. Delegation, management, and leadership; and
  - f. Meeting psychosocial and physiological needs of clients.

- C.** A refresher program may adapt the curriculum based on the need to incorporate content applicable to specialty and indirect care areas of nursing practice for students who plan to practice in those areas. The clinical experience for such students may include indirect care, depending on the course goals and objectives. The program shall include concepts and skills needed to deliver safe nursing care in any adapted curriculum.
- D.** The Board shall approve a refresher program that meets the requirements of subsection (A), if approval is in the best interest of the public, for a term of four years. An applicant who is denied refresher program approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- E.** The refresher program sponsor shall apply for renewal of approval in accordance with subsection (A) not later than 90 days before expiration of the current approval. The sponsor of a refresher program that is denied renewal of approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.
- F.** The sponsor of an approved refresher program shall provide written notification to the Board within 15 days of a participant's completion of the program of the following:
  1. Name of the participant and whether the participant successfully completed or failed the program,
  2. Participant's license, and
  3. Date of participant's completion of the program.

#### Historical Note

Adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 7 A.A.R. 5349, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (05-1).



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

- A.** An out-of-state nursing program that plans to provide both didactic and clinical instruction in Arizona shall comply with the application requirements of R4-19-207 and R4-19-208.
- B.** A nursing program that delivers didactic instruction by distance learning methods shall ensure that the methods of instruction are compatible with the program curriculum plan and enable a student to meet the goals, competencies, and objectives of the educational program and standards of the Board.
  - 1. A distance learning nursing program shall establish a means for assessing individual student outcomes, and program outcomes including, at minimum, student learning outcomes, student retention, student satisfaction, and faculty satisfaction.
  - 2. For out-of-state nursing programs, the program shall be within the jurisdiction of and regulated by an equivalent nursing regulatory authority in the state from which the program originates, unless also providing clinical experience in Arizona.
  - 3. Faculty shall be licensed in the state of origination of a distance learning nursing program.
  - 4. A distance learning nursing program shall provide students with supervised clinical and laboratory experiences so that program objectives are met and didactic learning is validated by supervised, land-based clinical and laboratory experiences.
  - 5. A distance-learning nursing program shall provide students with access to technology, resources, technical support, and the ability to interact with peers, preceptors, and faculty.
- C.** A nursing program, located in another state or territory of the United States, that wishes to provide clinical experiences in Arizona under A.R.S. § 32-1631(3), shall obtain Board approval before offering or conducting a clinical session. To obtain approval, the program shall submit a proposal package that contains:
  - 1. A self study, describing the program's compliance with R4-19-201 through R4-19-206; and
  - 2. A statement regarding the anticipated effect on clinical placements for students currently enrolled in an Arizona-approved nursing program.
- D.** The Board may require a nursing program approved under this Section to file periodic reports for the purpose of data collection or to determine compliance with the provisions of this Article. A program shall submit a report to the Board within 30 days of the date on a written request from the Board or by the due date stated in the request if the due date is after the normal 30-day period.
- E.** The Board shall approve an application to conduct clinical instruction in Arizona that meets the requirements in A.R.S. Title 32, Chapter 15 and this Chapter, and is in the best interest of the public. An applicant who is denied approval to conduct clinical instruction in Arizona may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F.** The Board may rescind an approval held by an out-of-state nursing program to conduct clinical instruction in Arizona, in accordance with R4-19-211.
- G.** If the Board finds that a nursing program located and approved in another state or territory of the United States does not meet requirements for nursing programs prescribed in R4-19-201 through R4-19-206, the Board shall provide a notice of defi-

ciency to the program as prescribed in R4-19-211(A), (A)(1) and (A)(2).

- 1. If the program fails to correct the deficiency before the expiration of the period of correction, the Board shall rescind approval of the program as prescribed in R4-19-211(B)(1).
- 2. If the period of rescission, from the date of rescission to the date of reinstatement, is at any time concurrent with an applicant's education from the date of admission to the date of graduation, the Board shall withhold licensure unless the applicant meets all licensure requirements and completes any remedial education prescribed by the Board under R4-19-301(H). The Board shall ensure that the applicant has completed a curriculum that is equivalent to that of an approved nursing program.
- 3. If a nursing program provides evidence of compliance with R4-19-201 through R4-19-206 after the rescission of approval, the Board shall review the evidence, determine whether or not the nursing program complies with these standards, and reinstate approval of the program if the program complies with these standards.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 451, effective March 7, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2).

**ARTICLE 3. LICENSURE****R4-19-301. Licensure by Examination**

- A.** An applicant for licensure by examination shall:
  - 1. Submit to the Board a verified application on a form furnished by the Board that provides the following information about the applicant:
    - a. Full name and any former names used by the applicant;
    - b. Mailing address, including primary state of residence, and telephone number;
    - c. Place and date of birth;
    - d. Ethnic category and marital status, at the applicant's discretion;
    - e. Social Security number for an applicant who lives or works in the United States;
    - f. Post-secondary education, including the names and locations of schools attended, graduation dates, and degrees received, if applicable;
    - g. Current employer or practice setting, including address, telephone number, position, and dates of service, if employed or practicing in nursing or health care, and previous employer or practice setting in nursing or health care, if any, if current employment is less than 960 hours within the past five years;
    - h. Any state, territory, or country in which the applicant holds a registered or practical nursing license and the license number and status of the license, including original state of licensure, if applicable;
    - i. The date the applicant previously filed an application for licensure in Arizona, if applicable or known;
    - j. Responses to questions regarding the applicant's background on the following subjects:
      - i. Pending disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation of the applicant's nursing license in another state or territory of the United States,

- ii. Felony conviction or conviction of an undesignated or other similar offense, and
  - iii. Unprofessional conduct as defined in A.R.S. § 32-1601;
- k. Detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
- l. Certification in nursing including category, specialty, name of certifying body, date of certification, and expiration date.
- 2. Submit a completed fingerprint card for the purpose of obtaining a criminal history report under A.R.S. § 32-1606 if the applicant has not submitted a fingerprint card to the Board within the last two years; and
- 3. Pay the applicable fees.
- B.** If an applicant took the State Board Test Pool Examination (SBTPE), National Council Licensure Examination (NCLEX®) RN, or NCLEX-PN in any state or territory of the United States or in Canada, the applicant shall indicate on the application:
  - 1. The date of the examination,
  - 2. The location of the examination, and
  - 3. The result of the examination.
- C.** If an applicant is a graduate of a nursing program in the United States that has been assigned a program code by the National Council of State Boards of Nursing, the applicant shall submit one of the following:
  - 1. If the program is an Arizona-approved program, a statement signed by a nursing program administrator or designee verifying that:
    - a. The applicant graduated from a registered nursing program for a registered nurse applicant; or
    - b. The applicant completed a practical nursing program or graduated from a registered nursing program for a practical nurse applicant; or
  - 2. If the program is located in another state or territory and meets educational standards that are substantially comparable to Board standards for educational programs under R4-19-201 to R4-19-206 when the applicant completed the program, an official transcript sent directly from one of the following as:
    - a. Evidence of graduation from a diploma registered nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a registered nurse applicant.
    - b. Evidence of completion of a practical nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a practical nurse applicant.
- D.** If an applicant is a graduate of a foreign nursing program and lacks items required in subsection (C), the applicant shall comply with subsections (A) and (B), submit verification of the status of any nursing licenses held, and submit the following:
  - 1. To demonstrate nursing program equivalency, one of the following:
    - a. Evidence of a passing score on the English language version of either the Canadian Nurses' Association Testing Service, or the Canadian Registered Nurse Examination or an equivalent examination;
    - b. A Certificate or Visa Screen Certificate issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS), or a report from CGFNS that indicates an applicant's program is substantially comparable to a U.S. program; or
  - c. A report from another credential evaluation service (CES) that is accepted by the Board. The Board shall accept reports from a CES if acceptance is in the best interest of the public and the CES submits the information required by the Board under R4-19-303.
- 2. If an applicant's pre-licensure nursing program provided classroom instruction, textbooks, or clinical experiences in a language other than English, a test of written, oral, and spoken English is required. Clinical experiences are held in a foreign language if the principal language of the country or region where the nursing program was held is a language other than English. An applicant shall ensure that one of the following is submitted to the Board directly from the testing or certifying agency:
  - a. Evidence of a minimum score of 540 on the paper and pencil version or 207 on the computer-based version of the Test of English as a Foreign Language (TOEFL) and a minimum score of 50 on the Test of Spoken English (TSE) or a minimum score of 76 on the Internet-based TOEFL,
  - b. Evidence of a minimum score of 6.5 on the Academic Exam and 7.0 on the spoken exam of the International English Language Test Service (IELTS) Examination,
  - c. Evidence of a minimum score of 725 on the Test of English in International Communication (TOEIC) exam and 50 on the TSE,
  - d. A Visa Screen Certificate from CGFNS,
  - e. A CGFNS Certificate and a score of 50 on the TSE if the applicant did not take the Internet-based TOEFL or IELTS to meet certification requirements,
  - f. Evidence of a similar minimum score on another written and spoken English proficiency exam determined by the Board to be equivalent to the other exams in this subsection, or
  - g. Evidence of employment for a minimum of 960 hours within the past five years as a nurse in another country or territory where the principal language is English.
- E.** An applicant for a registered nurse license shall attain:
  - 1. A passing score on the NCLEX-RN;
  - 2. A score of 1600 on the NCLEX-RN, if the examination was taken before July 1988; or
  - 3. A score of not less than 350 on each part of the SBTPE for registered nurses.
- F.** An applicant for a practical nurse license shall attain:
  - 1. A passing score on the NCLEX-PN;
  - 2. A score of not less than 350 on the NCLEX-PN, if the examination was taken before October 1988; or
  - 3. A score of not less than 350 on the SBTPE for practical nurses.
- G.** The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by examination may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- H.** If the Board receives an application from a graduate of a nursing program and the program's approval was rescinded under R4-19-211 at any time during the applicant's nursing education, the Board shall withdraw the application or ensure that the applicant has completed a basic curriculum that is equivalent to that of a Board-approved nursing program and either:

## Board of Nursing

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

**Historical Note**

Former Section II, Part I; Amended effective January 20, 1975 (Supp. 75-1). Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-24 repealed, new Section R4-19-24 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-24 repealed, new Section R4-19-24 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-24 renumbered as Section R4-19-301 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2).

**R4-19-302. Licensure by Endorsement**

- A. An applicant for a license by endorsement shall submit all of the information required in R4-19-301(A).
- B. In addition to the information required in subsection (A), an applicant for a license by endorsement shall:
  1. Submit evidence of a passing examination score in accordance with:
    - a. R4-19-301(E) for a registered nurse applicant, or
    - b. R4-19-301(F) for a practical nurse applicant.
  2. Submit evidence of the following:
    - a. Previous or current license in another state or territory of the United States, and
    - b. One of the following:
      - i. Completion of a nursing program that has been assigned a nursing program code by the National Council of State Boards of Nursing (NCSBN) at the time of program completion and the program meets educational standards substantially comparable to Board standards for educational programs in R4-19-201 to R4-19-206;
      - ii. If the applicant completed a nursing program that has been assigned a program code by the NCSBN but the program's approval was rescinded under A.R.S. § 32-1644(D) or R4-19-215 during the applicant's enrollment in the program, proof of completion of the program plus any remedial education required by the Board to mitigate the deficiencies in the applicant's initial nursing program;
      - iii. Completion of a nursing program that met the qualifications for a program code at the time of the applicant's graduation if before 1986 and the applicant was issued an initial license in another state or territory of the United States without being required to obtain additional education or experience; or
      - iv. For a graduate of a foreign nursing program, completion of a nursing program that meets the requirements in R4-19-301(D)(1). In addition,

an applicant who graduated from a foreign nursing program shall satisfy the English proficiency requirements in R4-19-301(D)(2) if the applicant has not practiced nursing for a minimum of 960 hours within the past five years in another state, territory, or country where English is the primary language.

- C. The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by endorsement may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Former Section II, Part II; Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-25 repealed, new Section R4-19-25 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-25 repealed, new Section R4-19-25 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-25 renumbered and amended as Section R4-19-302 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2).

**R4-19-303. Requirements for Credential Evaluation Service**

- A. A credential evaluation service that seeks to be accepted by the Board shall submit documentation to the Board for initial acceptance and every three years that it:
  1. Provides a credential evaluation to determine comparability of registered nurse or practical nurse programs in other countries to nursing education in the United States;
  2. Evaluates original source documents;
  3. Has five or more years of experience in evaluating nursing educational programs or employs personnel that have this experience;
  4. Employs staff with expertise in evaluating nursing programs;
  5. Has access to resources pertinent to the field of nursing education and the evaluation of nursing programs;
  6. Issues a report on each applicant, and supplies the Board with a sample report, regarding the comparability of the applicant's nursing educational program to nursing education in the United States that includes:
    - a. The name of the applicant including any former names,
    - b. Source and description of the documents evaluated,
    - c. Name and nature of the institution,
    - d. Dates applicant attended,
    - e. References consulted,
    - f. A seal or some other security measure, and
    - g. Notification of any falsification or misrepresentation of documents by the applicant;
  7. Has a quality control program that includes at a minimum:
    - a. Standards regarding the use of original documents,
    - b. Verifying authenticity of documents and translations,
    - c. Security of documents,
    - d. Confidentiality of records,

- e. Responsiveness to applicants that include the criterion that reports are issued no later than eight weeks from the receipt of an applicant's documents; and
    - f. Tracking and notification of the Board of any trends in falsification or misrepresentation of documents;
  - 8. Follows the standards of the National Association of Credentialing Services (NACES) or an equivalent organization regarding staffing and resources;
  - 9. Will allow the Board to conduct a site survey at any time deemed necessary by the Board; and
  - 10. Agrees to notify the Board before any changes in any of the above criteria.
- B.** Depending on the severity of the violation, the Board may revoke the approval of a credential evaluation service that fails to comply with the criteria established in this Section.
- C.** The Board shall approve a credential evaluation service that meets the criteria established in this Section. An applicant who is denied approval or whose approval is revoked may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

#### Historical Note

Former Section II, Part III; Former Section R4-19-26 repealed, new Section R4-19-26 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-26 renumbered and amended as Section R4-19-27, new Section R4-19-26 adopted effective May 9, 1984 (Supp. 84-3). Former Section R4-19-27 renumbered as Section R4-19-303 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1802, effective May 18, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-303 renumbered to R4-19-304; new Section R4-19-303 made by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

#### R4-19-304. Temporary License

- A.** Subject to subsection (B), the Board shall issue a temporary license if:
- 1. An applicant:
    - a. Is qualified under:
      - i. A.R.S. § 32-1635 and applies for a temporary registered nursing license, or is qualified under A.R.S. § 32-1640 and applies for a temporary practical nursing license; and
      - ii. R4-19-301 for applicants for licensure by examination, or is qualified under R4-19-302 for applicants for licensure by endorsement; and
    - b. Submits an application for a temporary license with the applicable fee required under A.R.S. § 32-1643(A)(9); and
    - c. Submits an application for a license by endorsement or examination with the applicable fee required under A.R.S. § 32-1643(A).
  - 2. An applicant is seeking a license by examination, meets the requirements of R4-19-312(C), and the Board receives a report from the Arizona Department of Public Safety (DPS), verifying that DPS has no criminal history record information, as defined in A.R.S. § 41-1701, relating to the applicant or that any criminal history reported has been reviewed by the executive director or the director's designee and determined not to pose a threat to public health, safety, or welfare; or

- 3. An applicant is seeking a license by endorsement, meets the requirements in R4-19-312(B), and the applicant submits evidence that the applicant has a current license in good standing in another state or territory of the United States; or
  - 4. An applicant has an expired, inactive, or lapsed license for five or more years, or does not meet the requirements in R4-19-312(B) or (C), but provides evidence that the applicant has applied for enrollment in a refresher program.
- B.** An applicant who has a criminal history, a history of disciplinary action by a regulatory agency, or a pending complaint before the Board is not eligible for a temporary license or extension of a temporary license without Board approval.
- C.** A temporary license is valid for a maximum of 12 months unless extended for good cause under subsection (D).
- D.** An applicant with a temporary license may apply for and the Board or the Executive Director may grant an extension of the temporary license period for good cause. Good cause means reasons beyond the control of the temporary licensee, such as unavoidable delays in obtaining information required for licensure.
- E.** An applicant who receives a temporary license but does not meet the criteria for a regular license within the established period under subsections (C) and (D) is no longer eligible for a temporary license.

#### Historical Note

Former Section II, Part IV; Amended effective January 20, 1975 (Supp. 75-1). Former Section R4-19-27 repealed, new Section R4-19-27 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-27 renumbered and amended as Section R4-19-28. Former Section R4-19-26 renumbered and amended as Section R4-19-27 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-27 renumbered and amended as Section R4-19-304 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-304 renumbered to R4-19-305; new Section R4-19-304 renumbered from R4-19-303 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

#### R4-19-305. License Renewal

- A.** An applicant for renewal of a registered or practical nursing license shall:
- 1. Submit to the Board a verified application obtained from the Board that provides all of the following information about the applicant:
    - a. Full name, mailing address, and primary state of residence;
    - b. A listing of all states in which the applicant is currently licensed;
    - c. Marital status, at the applicant's discretion;
    - d. Information regarding qualifications, including:
      - i. Educational background;
      - ii. Employment status; and
      - iii. Practice setting;
    - e. Responses to questions regarding the applicant's background on the following subjects:
      - i. Criminal convictions for offenses involving drugs or alcohol since the time of last renewal;
      - ii. Felony convictions or convictions for undesignated or other similar offenses since the time of last renewal; and

## Board of Nursing

- iii. Unprofessional conduct as defined in A.R.S. § 32-1601 since the time of last renewal;
  - f. A detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background;
  - g. Information about the applicant's current or most recent nursing practice under R4-19-312, including position, address, telephone number, and dates of practice. If the period of practice in the current position is less than 960 hours within the last five years, the nurse shall provide, if available, documentation of 960 hours of practice in the last five years; and
  - h. Certification in nursing including category, specialty, name of certifying body, date of certification, and expiration date;
- 2. Pay fees for renewal authorized by A.R.S. § 32-1643(6); and
- 3. Pay an additional fee for late renewal authorized by A.R.S. § 32-1643(7) if the application for renewal is submitted after August 1 of the year of renewal.
- B.** A license renewed after July 1, 2000 expires November 2 of the year of renewal indicated on the license.
- C.** A licensee who fails to submit a renewal application before expiration of a license shall not practice nursing until the Board issues a renewal license.
- D.** The Board shall renew the license of any registered or practical nurse applicant who meets the criteria established in statute and this Article. An applicant who is denied renewal of a license may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Former Section II, Part V; Repealed effective January 20, 1975 (Supp. 75-1). New Section R4-19-28 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-28 renumbered and amended as Section R4-19-29. Former Section R4-19-27 renumbered and amended as Section R4-19-28 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-28 renumbered and repealed as Section R4-19-305 effective February 21, 1986 (Supp. 86-1). New Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-305 renumbered to R4-19-306; new Section R4-19-305 renumbered from R4-19-304 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

**R4-19-306. Inactive License**

- A.** A licensee in good standing may submit a written request to the Board to transfer to inactive status, or request a transfer to inactive status on a verified renewal application.
- B.** The Board shall send a written notice to the licensee granting inactive status in writing or denying the request. A licensee denied a request for transfer to inactive status may request a hearing by filing a written request with the Board within 30 days of service of the denial of the request. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Former Section II, Part VI; Amended effective January 20, 1975 (Supp. 75-1). Amended effective December 7, 1976 (Supp. 76-5). Former Section R4-19-29 repealed, new Section R4-19-29 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-29 renumbered

and amended as Section R4-19-30 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-28 renumbered and amended as Section R4-19-29 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-29 renumbered as Section R4-19-306 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-306 renumbered to R4-19-307; new Section R4-19-306 renumbered from R4-19-305 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

**R4-19-307. Application for a Duplicate License**

- A.** A licensee shall report a lost or stolen license to the Board, in writing, within 30 days of the loss.
- B.** A licensee requesting a duplicate license shall file an application for a duplicate license and pay the applicable fee under A.R.S. § 32-1643(14).

**Historical Note**

Former Section II, Part VII; Former Section R4-19-30 renumbered and amended as Section R4-19-45, new Section R4-19-30 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-30 renumbered and amended as Section R4-19-31. Former Section R4-19-29 renumbered and amended as R4-19-30 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-29 renumbered and amended as Section R4-19-307 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-307 renumbered to R4-19-308; new Section R4-19-307 renumbered from R4-19-306 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

**R4-19-308. Change of Name or Address**

- A.** A licensee or applicant shall notify the Board, in writing, of any legal change in name within 30 days of the change, and submit a copy of the official document verifying the name change.
- B.** A licensee or applicant shall notify the Board of any change in mailing address within 30 days.

**Historical Note**

Former Section II, Part VII; Former Section R4-19-31 repealed, new Section R4-19-31 adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-31 renumbered and amended as Section R4-19-32. Former Section R4-19-30 renumbered and amended as Section R4-19-31 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-31 renumbered as Section R4-19-308 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended effective December 3, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 4819, effective December 7, 2000 (Supp. 00-4). Former Section R4-19-308 renumbered to R4-19-309; new Section R4-19-308 renumbered from R4-19-307 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

**R4-19-309. School Nurse Certification Requirements**

- A.** Application requirements. An applicant for initial school nurse certification shall:
  - 1. Hold a current license in good standing or multistate privilege to practice as a registered nurse in Arizona;

2. Submit to the Board a verified application on a form furnished by the Board that provides the following information about the applicant:
    - a. Full name and any former names used by the applicant;
    - b. Mailing address and telephone number;
    - c. Registered nurse license number;
    - d. Social security number;
    - e. A description of the applicant's educational background, including the number and location of schools attended, the number of years attended, the date of graduation, the type of degree or certificate awarded, and if applicable, a statement that the applicant has satisfied the educational requirements specified in subsection (C), (D), or (E);
    - f. Current employer, including address, telephone number, position type, dates of employment, and previous employer if the current employment is less than 12 months;
    - g. The name of any national certifying organization, specialty area, certification number and date of certification, if applicable;
    - h. Responses to questions regarding the applicant's background on the following subjects:
      - i. Pending disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation in another state or territory of the United States;
      - ii. Felony conviction or conviction of an undesignated or other similar offense; and
      - iii. Unprofessional conduct as defined in A.R.S. § 32-1601; and
    - i. Detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
  3. Pay applicable fees.
- B. Initial-level certification.**
1. Only applicants who have never been certified by the Board or the Department of Education are eligible for certification at the initial level. The Board does not require additional education, exceeding that required for licensure as a registered nurse for initial-level certification.
  2. Initial-level certification expires three years after the issue date on the certificate.
- C. First-level certification.**
1. If the initial-level certificate of a school nurse has expired, or the school nurse was previously certified by the Department of Education and has never renewed, the nurse shall apply for first-level certification. In addition to the requirements in subsection (A), the registered nurse applicant shall provide evidence of completion of all the following:
    - a. Three semester hours in school nurse practice course work,
    - b. Three semester hours in physical assessment of the school-aged child course work, and
    - c. Three semester hours in nursing care of the child with developmental disabilities.
  2. A first-level certificate expires three years after the issue date on the certificate.
- D. Second-level certification.**
1. If the first-level certificate of a school nurse has expired, or the school nurse was previously certified by the Department of Education and has renewed once, the nurse shall apply for second-level certification. In addition to the requirements in subsection A, the registered nurse applicant shall provide evidence of completion of the following:
    - a. A bachelor of science degree in nursing, or
    - b. Completion of the following educational requirements:
      - i. Three semester hours in community health nursing theory or population-based care;
      - ii. Three semester hours in management theory; and
      - iii. Either three semester hours of upper division or graduate credit in nursing or health-related subjects from a regionally-accredited institution, as defined in R4-19-101, or 45 contact hours of continuing education related to nursing practice.
  2. A second-level certificate expires six years after the issue date on the certificate.
- E. Third-level certification.**
1. If the second-level certificate of a school nurse has expired or the school nurse was previously certified by the Department of Education and has renewed two or more times, the nurse shall apply for third-level certification on all subsequent renewals. In addition to the requirements in subsection (A), the registered nurse applicant shall provide evidence of all the following:
    - a. Six semester hours of upper division or graduate credit in nursing or health-related subjects from a regionally accredited institution, as defined in R4-19-101; or
    - b. Ninety contact hours of continuing education related to nursing practice.
  2. Third-level certification expires six years after the issue date on the certificate.
- F. The Board shall grant a school nurse certificate to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a school nurse certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the certificate. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.**

#### Historical Note

Former Section II, Part IX; Repealed effective February 20, 1980 (Supp. 80-1). Former Section R4-19-31 renumbered and amended as Section R4-19-32 effective May 9, 1984 (Supp. 84-3). Former Section R4-19-32 renumbered as Section R4-19-309 (Supp. 86-1). Repealed effective July 19, 1995 (Supp. 95-3). New Section made by final rulemaking at 8 A.A.R. 1813, effective March 20, 2002 (Supp. 02-1). Former Section R4-19-309 renumbered to R4-19-311; new Section R4-19-309 renumbered from R4-19-308 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

#### R4-19-310. Certified Registered Nurse

A registered nurse who has been certified by a nursing organization accredited by the American Board of Nursing Specialties, the National Commission for Certifying Agencies, or an equivalent accrediting agency as determined by the Board is deemed certified for the purposes of A.R.S. § 32-1601(4).

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1).

**R4-19-311. Nurse Licensure Compact**

The Board shall implement A.R.S. §§ 32-1668 and 32-1669 according to the provisions of the Nurse Licensure Compact Model Rules and Regulations, published by the National Council of State Boards of Nursing, Inc., 111 E. Wacker Dr., Suite 2900, Chicago, IL, 60601, www.ncsbn.org, August 4, 2008, and no later amendments or editions, which is incorporated by reference and on file with the Board.

**Historical Note**

New Section renumbered from R4-19-309 and amended by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 18 A.A.R. 2485, effective September 11, 2012 (Supp. 12-3).

**R4-19-312. Practice Requirement**

- A.** The Board shall not issue a license or renew the license of an applicant who does not meet the applicable requirements in subsections (B), (C), and (D).
- B.** An applicant for licensure by endorsement or renewal shall complete a nursing program or practice nursing at the applicable level of licensure for a minimum of 960 hours in the five years before the date on which the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
  - 1. Completed a nursing education program and obtained a degree, or an advanced practice certificate in nursing within the past five years; or
  - 2. Practiced for a minimum of 960 hours within the past five years where the nurse:
    - a. Worked for compensation or as a volunteer, as a licensed nurse, and performed one or more acts under A.R.S. § 32-1601(20) for a registered nurse or A.R.S. § 32-1601(16) for a practical nurse; or
    - b. Held a position for compensation or as a volunteer that required or recommended, in the job description, the level of licensure being sought or renewed; or
    - c. Engaged in clinical practice as part of an RN-BSN, masters, doctoral, or nurse practitioner program.
- C.** An applicant for licensure by examination, who is a graduate of a nursing program located in the U.S or its territories, shall complete a pre-licensure nursing program within two years of the date of licensure. Examination applicants who were previously licensed in a foreign jurisdiction shall meet the applicable requirements of subsection (B) or (D).
- D.** A licensee or applicant who fails to satisfy the requirements of subsection (B) or (C), shall submit evidence of satisfactory completion of a Board-approved refresher program that meets the requirements in R4-19-214. The Board may issue a temporary license stamped "for refresher course only" to any applicant who meets all requirements of this Article except subsection (B) or (C) and provides evidence of applying for enrollment in a Board-approved refresher program.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citations in subsection (B)(2)(a) were updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**ARTICLE 4. REGULATION****R4-19-401. Standards Related to Licensed Practical Nurse Scope of Practice**

- A.** A licensed practical nurse shall engage in practical nursing as defined in A.R.S. § 32-1601 only under the supervision of a registered nurse or licensed physician.
- B.** A LPN's nursing practice is limited to those activities for which the LPN has been prepared through basic practical nursing education in accordance with A.R.S. § 32-1637(1) and those additional skills that are obtained through subsequent nursing education and within the scope of practice of a LPN as determined by the Board.
- C.** A LPN shall:
  - 1. Practice within the legal boundaries of practical nursing within the scope of practice authorized by A.R.S. Title 32, Chapter 15 and 4 A.A.C.19;
  - 2. Demonstrate honesty and integrity;
  - 3. Base nursing decisions on nursing knowledge and skills, the needs of clients, and licensed practical nursing standards;
  - 4. Accept responsibility for individual nursing actions, decisions, and behavior in the course of practical nursing practice.
  - 5. Maintain competence through ongoing learning and application of knowledge in practical nursing practice.
  - 6. Protect confidential information unless obligated by law to disclose the information;
  - 7. Report unprofessional conduct, as defined in A.R.S. § 32-1601(22) and further specified in R4-19-403 and R4-19-814, to the Board;
  - 8. Respect a client's rights, concerns, decisions, and dignity;
  - 9. Maintain professional boundaries; and
  - 10. Respect a client's property and the property of others.
- D.** In participating in the nursing process and implementing client care across the lifespan, a LPN shall:
  - 1. Contribute to the assessment of the health status of clients by:
    - a. Recognizing client characteristics that may affect the client's health status;
    - b. Gathering and recording assessment data;
    - c. Demonstrating attentiveness by observing, monitoring, and reporting signs, symptoms, and changes in client condition in an ongoing manner to the supervising registered nurse or physician;
  - 2. Contribute to the development and modification of the plan of care by:
    - a. Planning episodic nursing care for a client whose condition is stable or predictable;
    - b. Assisting the registered nurse or supervising physician in identification of client needs and goals; and
    - c. Determining priorities of care together with the supervising registered nurse or physician;
  - 3. Implement aspects of a client's care consistent with the LPN scope of practice in a timely and accurate manner including:
    - a. Following nurse and physician orders and seeking clarification of orders when needed;
    - b. Administering treatments, medications, and procedures;
    - c. Attending to client and family concerns or requests;
    - d. Providing health information to clients as directed by the supervising RN or physician or according to an established educational plan;
    - e. Promoting a safe client environment;
    - f. Communicating relevant and timely client information with other health team members regarding:

- i. Client status and progress;
      - ii. Client response or lack of response to therapies;
      - iii. Significant changes in client condition; and
      - iv. Client needs and special requests; and
    - g. Documenting the nursing care the LPN provided;
  - 4. Contribute to evaluation of the plan of care by:
    - a. Gathering, observing, recording, and communicating client responses to nursing interventions; and
    - b. Modifying the plan of care in collaboration with a registered nurse based on an analysis of client responses.
- E.** A LPN assigns and delegates nursing activities. The LPN shall:
- 1. Assign nursing care within the LPN scope of practice to other LPNs;
  - 2. Delegate nursing tasks to unlicensed assistive personnel (UAPs). In maintaining accountability for the delegation, the LPN shall ensure that the:
    - a. UAP has the education, legal authority, and demonstrated competency to perform the delegated task;
    - b. Tasks delegated are consistent with the UAP's job description and can be safely performed according to clear, exact, and unchanging directions;
    - c. Results of the task are reasonably predictable;
    - d. Task does not require assessment, interpretation, or independent decision making during its performance or at completion;
    - e. Selected client and circumstances of the delegation are such that delegation of the task poses minimal risk to the client and the consequences of performing the task improperly are not life-threatening;
    - f. LPN provides clear directions and guidelines regarding the delegated task or, for routine tasks on stable clients, verifies that the UAP follows each written facility policy or procedure when performing the delegated task;
    - g. LPN provides supervision and feedback to the UAP; and
    - h. LPN observes and communicates the outcomes of the delegated task.
- Historical Note**
- Former Section III, Part II; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-42 renumbered as Section R4-19-401 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Subsection (C)(7) amended at request of Board, Office File No. M11-423, filed November 18, 2011 (Supp. 11-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in subsection (C)(7) was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).
- R4-19-402. Standards Related to Registered Nurse Scope of Practice**
- A.** A registered nurse (RN) shall perform only those nursing activities for which the RN has been prepared through basic registered nursing education and those additional skills which are obtained through subsequent nursing education and within the scope of practice of an RN as determined by the Board.
- B.** A RN shall:
- 1. Practice within the legal boundaries of registered nursing within the scope of practice authorized by A.R.S. Title 32, Chapter 15 and 4 A.A.C. 19;
  - 2. Demonstrate honesty and integrity;
  - 3. Base nursing decisions on nursing knowledge and skills, the needs of clients, and registered nursing standards;
  - 4. Accept responsibility for individual nursing actions, decisions, and behavior in the course of registered nursing practice;
  - 5. Maintain competence through ongoing learning and application of knowledge in registered nursing practice;
  - 6. Protect confidential information unless obligated by law to disclose the information;
  - 7. Report unprofessional conduct, as defined in A.R.S. § 32-1601(22) and further specified in R4-19-403 and R4-19-814, to the Board;
  - 8. Respect a client's rights, concerns, decisions, and dignity;
  - 9. Maintain professional boundaries;
  - 10. Respect a client's property and the property of others; and
  - 11. Advocate on behalf of a client to promote the client's best interest.
- C.** In utilizing the nursing process to plan and implement nursing care for clients across the life-span, a RN shall:
- 1. Conduct a nursing assessment of a client in which the nurse:
    - a. Recognizes client characteristics that may affect the client's health status;
    - b. Gathers or reviews comprehensive subjective and objective data and detects changes or missing information;
    - c. Applies nursing knowledge in the integration of the biological, psychological, and social aspects of the client's condition; and
    - d. Demonstrates attentiveness by providing ongoing client surveillance and monitoring;
  - 2. Use critical thinking and nursing judgment to analyze client assessment data to:
    - a. Make independent nursing decisions and formulate nursing diagnoses; and
    - b. Determine the clinical implications of client signs, symptoms, and changes, as either expected, unexpected, or emergent situations;
  - 3. Based on assessment and analysis of client data, plan strategies of nursing care and nursing interventions in which the nurse:
    - a. Identifies client needs and goals;
    - b. Formulates strategies to meet identified client needs and goals;
    - c. Modifies defined strategies to be consistent with the client's overall health care plan; and
    - d. Prioritizes strategies based on client needs and goals;
  - 4. Provide nursing care within the RN scope of practice in which the nurse:
    - a. Administers prescribed aspects of care including treatments, therapies, and medications;
    - b. Clarifies health care provider orders when needed;
    - c. Implements independent nursing activities consistent with the RN scope of practice;
    - d. Institutes preventive measures to protect client, others, and self;
    - e. Intervenes on behalf of a client when problems are identified;
    - f. Promotes a safe client environment;
    - g. Attends to client concerns or requests;



## Board of Nursing

- h. Communicates client information to health team members including:
  - i. Client concerns and special needs;
  - ii. Client status and progress;
  - iii. Client response or lack of response to interventions; and
  - iv. Significant changes in client condition; and
- i. Documents the nursing care the RN has provided;
- 5. Evaluate the impact of nursing care including the:
  - a. Client's response to interventions;
  - b. Need for alternative interventions;
  - c. Need to communicate and consult with other health team members; and
  - d. Need to revise the plan of care;
- 6. Provide comprehensive nursing and health care education in which the RN:
  - a. Assesses and analyzes educational needs of learners;
  - b. Plans educational programs based on learning needs and teaching-learning principles;
  - c. Ensures implementation of an educational plan either directly or by delegating selected aspects of the education to other qualified persons; and
  - d. Evaluates the education to meet the identified goals;
- D.** A RN assigns and delegates nursing activities. The RN shall:
  - 1. Assign nursing care within the RN scope of practice to other RNs;
  - 2. Assign nursing care to a LPN within the LPN scope of practice based on the RN's assessment of the client and the LPN's ability;
  - 3. Supervise, monitor, and evaluate the care assigned to a LPN; and
  - 4. Delegate nursing tasks to UAPs. In maintaining accountability for the delegation, an RN shall ensure that the:
    - a. UAP has the education, legal authority, and demonstrated competency to perform the delegated task;
    - b. Tasks delegated are consistent with the UAP's job description and can be safely performed according to clear, exact, and unchanging directions;
    - c. Results of the task are reasonably predictable;
    - d. Task does not require assessment, interpretation, or independent decision making during its performance or at completion;
    - e. Selected client and circumstances of the delegation are such that delegation of the task poses minimal risk to the client and the consequences of performing the task improperly are not life-threatening;
    - f. RN provides clear directions and guidelines regarding the delegated task or, for routine tasks on stable clients, verifies that the UAP follows each written facility policy or procedure when performing the delegated task;
    - g. RN provides supervision and feedback to the UAP; and
    - h. RN observes and communicates the outcomes of the delegated task.

**Historical Note**

Former Section III, Part I; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-43 renumbered as Section R4-19-402 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Section repealed, new Section made by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Subsection (B)(7) amended at request of Board, Office File No. M11-423, filed November 18, 2011 (Supp. 11-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S.

references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in subsection (B)(7) was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**R4-19-403. Unprofessional Conduct**

For purposes of A.R.S. § 32-1601(22)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

1. A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice;
2. Intentionally or negligently causing physical or emotional injury;
3. Failing to maintain professional boundaries or engaging in a dual relationship with a patient, resident, or any family member of a patient or resident;
4. Engaging in sexual conduct with a patient, resident, or any family member of a patient or resident who does not have a pre-existing relationship with the nurse, or any conduct in the work place that a reasonable person would interpret as sexual;
5. Abandoning or neglecting a patient who requires immediate nursing care without making reasonable arrangement for continuation of care;
6. Removing a patient's life support system without appropriate medical or legal authorization;
7. Failing to maintain for a patient record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient;
8. Falsifying or making a materially incorrect, inconsistent, or unintelligible entry in any record:
  - a. Regarding a patient, health care facility, school, institution, or other work place location; or
  - b. Pertaining to obtaining, possessing, or administering any controlled substance as defined in the federal Uniform Controlled Substances Act, 21 U.S.C. 801 et seq., or Arizona's Uniform Controlled Substances Act, A.R.S. Title 36, Chapter 27;
9. Failing to take appropriate action to safeguard a patient's welfare or follow policies and procedures of the nurse's employer designed to safeguard the patient;
10. Failing to take action in a health care setting to protect a patient whose safety or welfare is at risk from incompetent health care practice, or to report the incompetent health care practice to employment or licensing authorities;
11. Failing to report to the Board a licensed nurse whose work history includes conduct, or a pattern of conduct, that leads to or may lead to an adverse patient outcome;
12. Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse;
13. Failing to supervise a person to whom nursing functions are delegated;
14. Delegating services that require nursing judgment to an unauthorized person;
15. Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, employer, co-worker, or member of the public.
16. Removing, without authorization, a narcotic, drug, controlled substance, supply, equipment, or medical record from any health care facility, school, institution, or other work place location;
17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judg-

- ment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location;
18. Obtaining, possessing, administering, or using any narcotic, controlled substance, or illegal drug in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices;
  19. Providing or administering any controlled substance or prescription-only drug for other than accepted therapeutic or research purposes;
  20. Engaging in fraud, misrepresentation, or deceit in taking a licensing examination or on an initial or renewal application for a license or certificate;
  21. Impersonating a nurse licensed or certified under this Chapter;
  22. Permitting or allowing another person to use the nurse's license for any purpose;
  23. Advertising the practice of nursing with untruthful or misleading statements;
  24. Practicing nursing without a current license or while the license is suspended;
  25. Failing to:
    - a. Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664, or
    - b. Respond to a subpoena issued by the Board;
  26. Making a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation;
  27. Making a false or misleading statement on a nursing or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
  28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:
    - a. Name, address, telephone number, social security number, and license number, if applicable;
    - b. Date of the charge; and
    - c. Nature of the offense;
  29. Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nurse or applicant shall include the following in the notification:
    - a. Name, address, telephone number, social security number, and license number, if applicable;
    - b. Date of the conviction; and
    - c. Nature of the offense;
  30. For a registered nurse granted prescribing privileges, any act prohibited under R4-19-511(D); or
  31. Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed.

#### Historical Note

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-44 repealed, new Section R4-19-44 adopted effective May 9, 1984 (Supp. 84-3). Amended by adding Paragraphs 18 through 22 effective July 16, 1984 (Supp. 84-4). Former Section R4-19-44 renumbered and amended as Section R4-19-403 effective February 21, 1986 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 11 A.A.R. 3804, effective

November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Antiquated statute reference in opening subsection revised at the request of Board under A.R.S. § 41-1011(C), Office File No. M11-189, filed May 16, 2011 (Supp. 11-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in the opening subsection was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

#### R4-19-404. Re-issuance or Subsequent Issuance of License

- A. The Board may restore a license to a nurse whose license has been suspended after the period of suspension if the licensee provides written evidence that all requirements or conditions prescribed or ordered in the consent agreement or Board order for suspension have been met to the satisfaction of the Board. The Board may place conditions or limitations on the restored license. The license of a nurse who fails to provide such evidence of fulfilling the requirements or conditions prescribed by the Board shall remain on suspended status until such submission and acceptance by the Board.
- B. A person whose nursing license is denied, revoked, or voluntarily surrendered under A.R.S. § 32-1663 may apply to the Board to issue or re-issue the license:
  1. Five years from the date of denial or revocation, or
  2. In accordance with the terms of a voluntary surrender agreement.
- C. A person who applies for issuance or re-issuance of a license under the conditions of subsection (B) is subject to the following terms and conditions:
  1. The person shall submit a written application for issuance or re-issuance of the license that contains substantial evidence that the basis for surrendering, denying, or revoking the license has been removed and that the issuance or re-issuance of the license will not be a threat to public health or safety.
  2. Safe practice.
    - a. Under A.R.S. § 32-1664(F), the Board for reasonable cause may require a combination of mental, physical, nursing competency, psychological, or psychiatric evaluations, or any combination of evaluations, reports, and affidavits that the Board considers necessary to determine the person's competence and conduct to safely practice nursing.
    - b. Under A.R.S. 32-1664(K) the Board may issue subpoenas and compel the attendance of witnesses and the production of records and documentary evidence relevant to the person's ability to safely practice nursing.
  3. After receipt of the application, the information required under subsection (C)(2), and the completion of an investigation, the Board shall place the application on the agenda of a regularly scheduled Board meeting.
  4. After consideration of the application and any information required under subsection (C)(2), the Board may:
    - a. Grant the license with or without conditions or limitations;
    - b. If other licensure requirements have been met, grant, with or without conditions, a temporary license for the sole purpose of allowing the applicant to successfully complete an approved nurse refresher course; or
    - c. Deny the license if the Board determines that licensure might be harmful or dangerous to the health of a patient or the public.

## Board of Nursing

5. If the Board orders a refresher course described in subsection (C)(4)(b) the Board shall consider the applicant's performance in the approved refresher course and any other evidence, if available, of the applicant's safety to practice, and either deny the license under subsection (C)(4)(c) or grant the license with or without conditions or limitations.
  6. An applicant who is denied issuance or re-issuance of a license shall have 30 days from the date of issuance of the notice of denial from the Board to file a written request for hearing with the Board. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
6. Agrees to keep information provided by the Board under subsection (D) confidential as evidenced by a signed confidentiality agreement provided by the Board.
  - D. Upon receipt of the evaluator's signed confidentiality agreement, the Board may provide confidential investigative information and documents to the evaluator for the purpose of disclosing the reason for the evaluation, the focus of the evaluation, and the conduct causing the Board to order the evaluation including:
    1. The complaint and all information that has been received during the investigation of the complaint. Documents may include but are not limited to employment records, medical records, arrest records, conviction and sentencing records, excluding FBI fingerprint results, drug screen results, pharmacy profiles, witness statements, past licensure history, and a summary of information obtained during investigative interviews; and
    2. The specific questions for which the Board is seeking answers; and
  - E. The evaluator shall provide the following information to the Board:
    1. A professional report that is objective, thorough, timely, accurate, and defensible;
    2. Evaluation findings including diagnosis if appropriate and assessment of ability to practice safely;
    3. Recommendations for further evaluation, treatment, and remediation; and
    4. Suggestions for assuring safe practice and compliance with treatment and remediation recommendations, if any.

**Historical Note**

Former Section R4-19-30 renumbered and amended as Section R4-19-45 effective February 20, 1980 (Supp. 80-1). Former Section R4-19-45 renumbered as Section R4-19-404 (Supp. 86-1). Section repealed, new Section adopted effective July 19, 1995 (Supp. 95-3). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4).

**R4-19-405. Board-ordered Evaluations**

- A. Under A.R.S. § 32-1664(F), the Board may order a licensee or CNA certificate-holder to undergo an evaluation by an independent qualified evaluator for the purposes of determining the licensee's or certificate holder's safety and competence to practice. Evaluations may be in the areas of:
  1. Nursing knowledge or skills or both;
  2. Mental functioning, including but not limited to neuropsychological evaluation, and other cognition evaluations;
  3. Medical status including but not limited to medical review of drug screen results, chronic pain evaluation, physical examination, and biological testing;
  4. Psychiatric or psychological status including but not limited to substance abuse evaluation, boundary or sexual misconduct evaluations, and psychological testing; or
  5. Other similar evaluations that the Board determines are necessary to evaluate a licensee or certificate holder's ability to safely practice.
- B. Before making the decision to order the evaluation, the Board shall review the allegations and investigative findings.
- C. The Board retains the discretion to use an evaluator based on the evaluator's licensure history, the Board's past experience with the evaluator, and the quality of the evaluation provided. Before conducting a Board-ordered evaluation, a potential evaluator shall submit documentation that the evaluator:
  1. Possesses expertise and educational credentials in the area that the Board has ordered an evaluation;
  2. Holds a license or certificate in good standing with a licensing or certifying board located in the United States and discloses any past licensure disciplinary actions and criminal history;
  3. Will provide equipment and environmental conditions necessary to conduct a valid evaluation;
  4. Has no current or past treatment, collegial, or social relationship with the licensee or certificate holder, any family member of the licensee or certificate holder, or the licensee's or certificate holder's legal counsel;
  5. Will not enter into a treatment relationship with the licensee or certificate holder unless the relationship is unavoidable due to geographical location or the specific expertise of the evaluator; and

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-46 renumbered and amended as Section R4-19-405 effective February 21, 1986 (Supp. 86-1). Repealed effective July 19, 1995 (Supp. 95-3). New Section made by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4).

**ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE****R4-19-501. Categories and Specialty Areas of Advanced Practice Registered Nursing**

- A. The Board uses the following categories of advanced practice registered nursing:
  1. Registered nurse practitioner (RNP) in a specialty area including Certified Nurse Midwife as a specialty area of RNP; and
  2. Clinical Nurse Specialist (CNS) in a specialty area.
- B. A specialty area of advanced practice registered nursing is a field of practice that meets all of the following criteria. The specialty area is:
  1. Approved by the Board as a recognized advanced practice specialty area,
  2. Broad enough for an educational program to be developed that prepares a registered nurse to function both within the scope of practice of a category of advanced practice under A.R.S. § 32-1601 and within the specialty area, and
  3. Recognized as an advanced practice specialty area by a national certifying body that:
    - a. Is accredited by the National Commission for Certifying Agencies, the American Board of Nursing Specialties, or an equivalent organization as determined by the Board;
    - b. Has educational requirements that are consistent with the requirements in R4-19-505;

## Board of Nursing

- c. Has an application process and credential review that includes documentation that the applicant's education and clinical practice is in the advanced practice specialty area being certified;
  - d. Is national in the scope of its credentialing
  - e. Uses an examination as a basis for certification in the advanced practice specialty area that meets all of the following criteria:
    - i. The examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community;
    - ii. The examination assesses entry-level practice in the advanced practice category and specialty area;
    - iii. The examination assesses the knowledge, skills, and abilities essential for the delivery of safe and effective advanced nursing care to clients;
    - iv. Examination items are reviewed for content validity, cultural sensitivity, and correct scoring using an established mechanism, both before first use and periodically;
    - v. The examination is evaluated for psychometric performance and conforms to psychometric standards that are routinely utilized for other types of high-stakes testing;
    - vi. The passing standard is established using accepted psychometric methods and is re-evaluated periodically;
    - vii. Examination security is maintained through established procedures;
    - viii. A re-take policy is in place; and
    - ix. Conditions for taking the certification examination are consistent with standards of the testing community;
  - f. Issues certification based on passing the examination and meeting all other certification requirements;
  - g. Provides for periodic re-certification that includes review of qualifications and continued competence;
  - h. Has mechanisms in place for communication to the Board regarding timely verification of an individual's certification status and changes in the certification program, including qualifications, test plan, and scope of practice; and
  - i. Has an evaluation process to provide quality assurance in its certificate program.
- C.** The Board shall determine whether a certification or exam meets the requirements of this Section. The following specialty area certifications and exams meet the requirements of this Section as of the effective date of this rulemaking:
1. For RNP:
    - a. American Academy of Nurse Practitioner certification in the specialties of:
      - i. Adult nurse practitioner,
      - ii. Family nurse practitioner,
    - b. American Nurses Credentialing Center certification in the specialties of:
      - i. Acute care nurse practitioner,
      - ii. Adult nurse practitioner,
      - iii. Family nurse practitioner,
      - iv. Gerontological nurse practitioner,
      - v. Pediatric nurse practitioner,
      - vi. Adult psychiatric and mental health nurse practitioner,
      - vii. Family psychiatric and mental health nurse practitioner,
  - c. Pediatric Nursing Certification Board certification in the specialty of pediatric nurse practitioner,
  - d. National Certification Corporation for Obstetric, Gynecological, and Neonatal Nursing Specialties certification in the specialties of:
    - i. Women's health nurse practitioner,
    - ii. Neonatal nurse practitioner,
  - e. American College of Nurse-Midwives Certification Council certification in the specialty of nurse-midwife,
2. For CNS:
- a. American Association of Critical Care Nurses certification in the specialties of:
    - i. Adult critical care CNS,
    - ii. Pediatric critical care CNS,
    - iii. Neonatal critical care CNS,
  - b. American Nurses Credentialing Center certification in the specialties of:
    - i. Adult psych/mental health going across the life span CNS,
    - ii. Child/adolescent psych/mental health CNS,
    - iii. Community health CNS,
    - iv. Gerontological CNS,
    - v. Home health CNS,
    - vi. Medical-surgical CNS,
    - vii. Pediatric CNS.
- D.** The Board shall approve a specialty area that meets the criteria established in this Section. An entity that seeks approval of a specialty area and is denied approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Former Section IV, Part I. Former Section R4-19-53 renumbered as Section R4-19-501 (Supp. 86-1). Former Section R4-19-501 renumbered to R4-19-502, new Section R4-19-501 adopted effective November 18, 1994 (Supp. 94-4). Amended effective November 25, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 3213, effective July 12, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (05-3).

**R4-19-502. Requirements for Advanced Practice Registered Nursing Programs**

- A.** An educational institution or other entity that offers an advanced practice registered nursing program for registered nurse practitioners or clinical nurse specialists shall ensure that the program:
1. Is offered by or affiliated with a college or university that is accredited under A.R.S. § 32-1644;
  2. Is a formal educational program, that is part of a masters program or a post-masters program in nursing with a concentration in an advanced practice registered nursing category and specialty under R4-19-501;
  3. Is nationally accredited by an approved national nursing accrediting agency as defined in R4-19-101;
  4. Offers a curriculum that covers the scope of practice for both the category of advanced practice as specified in A.R.S. § 32-1601 and the specialty area;
  5. Includes a minimum of 500 hours of clinical practice;
  6. Notifies the Board of any changes in hours of clinical practice or accreditation status and responds to Board requests for information;

## Board of Nursing

7. Has financial resources sufficient to support the educational goals of the program; and
8. Establishes academic, professional, and conduct standards that determine admission to the program, progression in the program, and graduation from the program that are consistent with sound educational practices and recognized standards of professional conduct.
- B.** A faculty member who is educated and nationally certified in the same or a related specialty area and certified as an advanced practice registered nurse by the Board shall coordinate the educational component for the category and specialty in the advanced practice registered nursing program.
- C.** The parent institution of an advanced practice registered nursing program shall ensure that a nursing program faculty member is appointed to oversee any advanced practice registered nursing course that includes a clinical experience. The faculty member appointed shall hold:
  1. An unencumbered active license in good standing or a multistate privilege to practice as a registered nurse in Arizona, and
  2. A graduate degree with a major in nursing or a clinical specialty.
- D.** Other licensed health care professionals may teach a non-clinical course or assist in teaching a clinical course in an advanced practice registered nursing program within their area of licensure and expertise.
- E.** The parent institution of an advanced practice nursing program shall ensure that a preceptor supervising a student in clinical practice:
  1. Holds an unencumbered active license or multistate privilege to practice as a registered nurse or physician in the state in which the preceptor practices or, if employed by the federal government, holds an unencumbered active RN or physician license in the United States;
  2. Has at least one year clinical experience as a physician or an advanced practice nurse, and
  3. For nurse preceptors, has at least one of the following:
    - a. National certification in the advanced practice category in which the student is enrolled;
    - b. Current Board certification in the advanced practice category in which the student is enrolled; or
    - c. If an advanced practice preceptor cannot be found who meets the requirements of (E)(3)(a) or (b), educational and experiential qualifications that will enable the preceptor to precept students in the program, as determined by the nursing program and verified by the Board.
1. An application that includes all of the following information:
  - a. Category, specialty area that meets the criteria in R4-19-501(B), and the faculty member coordinating the program under R4-19-502(B);
  - b. Name, address, and accreditation status of the applicant or affiliated educational institution;
  - c. The mission, goals, and objectives of the program consistent with generally accepted standards for advanced practice education;
  - d. List of the required courses, and a description, measurable objectives, and content outline for each required course;
  - e. A proposed time schedule for implementation of the program;
  - f. The total hours allotted for both didactic instruction and supervised clinical practicum in the program;
  - g. List of the names and qualifications of each faculty member; and
  - h. A self-study that provides evidence of compliance with R4-19-502.
- B.** The Board shall approve an advanced practice registered nursing program if approval is in the best interest of the public and the program meets the requirements of this Article. The Board may grant approval for a period of two years or less to an advanced practice nursing program where the program meets all the requirements of this Article except for accreditation by a national nursing accrediting agency, based on the program's presentation of evidence that it has applied for accreditation and meets accreditation standards.
- C.** An educational institution that is denied approval of an advanced practice registered nursing program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying its application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D.** Approval of an advanced practice registered nursing program expires 12 months from the date of approval if a class of students is not admitted within that time.

**Historical Note**

Former Section IV, Part III; Amended effective Nov. 17, 1978 (Supp. 78-6). Amended effective February 20, 1980 (Supp. 80-1). Amended by adding subsection (F) effective July 20, 1981 (Supp. 81-4). Amended by adding subsection (G) effective September 15, 1982 (Supp. 82-5). Former Section R4-19-55 renumbered as Section R4-19-503 (Supp. 86-1). Former Section R4-19-503 repealed, new Section adopted effective November 18, 1994 (Supp. 94-4). Former Section R4-19-503 renumbered to Section R4-19-504; new Section R4-19-503 adopted effective November 25, 1996 (Supp. 86-1). Amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (05-3).

**Historical Note**  
Former Section IV, Part II; Amended effective February 20, 1980 (Supp. 80-1). Former Section R4-19-54 repealed, new Section R4-19-54 adopted effective July 20, 1981 (Supp. 81-4). Former Section R4-19-54 renumbered as Section R4-19-502 (Supp. 86-1). Section repealed, new Section R4-19-502 renumbered from R4-19-501 and Section heading amended effective November 18, 1994 (Supp. 94-4). Section repealed, new Section R4-19-502 adopted effective November 25, 1996 (Supp. 96-4). Amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (05-3).

**R4-19-503. Application for Approval of an Advanced Practice Registered Nursing Program; Approval by Board**

- A.** An administrator of an educational institution that proposes to offer an advanced practice registered nursing program shall submit the following to the Board:

**R4-19-504. Recission of Approval of an Advanced Practice Registered Nursing Program**

- A.** The Board may periodically survey an advanced practice registered nursing program to determine whether criteria for approval are being met.
- B.** The Board shall, upon determining that an advanced practice registered nursing program is not in compliance with R4-19-502, provide to the program administrator a written notice of deficiencies that establishes a reasonable time, based upon the number and severity of deficiencies, to correct the deficiencies. The time for correction may not exceed 18 months.

1. The program administrator shall, within 30 days from the date of service of the notice of deficiencies, consult with the Board or designated Board representative and, after consultation, file a plan to correct each of the identified deficiencies.
  2. The program administrator may, within 30 days from the date of service of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
  3. If the Board's determination is not appealed or is upheld upon appeal, the Board may conduct periodic evaluations of the program during the time of correction to determine whether the deficiencies have been corrected.
- C.** The Board shall, following a Board-conducted survey and report, rescind the approval or limit the ability of a program to admit students if the program fails to comply with R4-19-502 within the time set by the Board in the notice of deficiencies provided to the program administrator.
1. The Board shall serve the program administrator with a written notice of proposed rescission of approval or limitation of admission of students that states the grounds for the rescission or limitation. The program administrator has 30 days to submit a written request for a hearing to show cause why approval should not be rescinded or admissions limited. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
  2. Upon the effective date of a decision to rescind program approval, the effected advanced practice registered nursing program shall immediately cease operation and be removed from the official approved-status listing. An advanced practice registered nursing program that is ordered to cease operations shall assist currently enrolled students to transfer to an approved nursing program.
- D.** The Board may rescind approval of an advanced practice registered nursing program, based on the severity of the violations, if rescision is in the best interest of the public or for one or both of the following reasons:
1. For a program that was served with a notice of deficiencies within the preceding three years and timely corrected the noticed deficiencies, subsequent noncompliance with the standards in R4-19-502; or
  2. Failure to comply with orders of or stipulations with the Board within the time determined by the Board.

#### Historical Note

Former R4-19-504 renumbered to R4-19-505; new R4-19-504 made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (05-3).

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

- A.** An applicant for certification as a registered nurse practitioner (RNP) or clinical nurse specialist (CNS) in a specialty area, shall:
1. Hold a current Arizona registered nurse (RN) license in good standing or an RN license in good standing from a compact party state with multistate privileges; and
  2. Submit an application to the Board that provides all of the following:
    - a. Full name and any former names;
    - b. Current mailing address and telephone number;
    - c. RN license number, application for RN license, or copy of a multistate compact RN license;
    - d. Educational background, including the name and location of all advanced practice registered nursing education programs or schools attended, the number of years attended, the length of each program, the date of graduation or completion, and the type of degree or certificate awarded;
    - e. Category and specialty area for which the applicant is applying;
    - f. Each current and previous employer, including address, type of position, and dates of employment;
    - g. Information regarding national certification or recertification as an advanced practice registered nurse in the category and specialty area, if applicable, for which the applicant is applying, including the name of the certifying organization, specialty area, certification number, date of certification, and expiration date;
    - h. Whether the applicant is under investigation or has disciplinary action pending against the applicant's nursing license or advanced practice certificate or license in any state, other than Arizona, or territory of the United States;
    - i. Whether the applicant has ever been convicted, entered a plea of guilty, nolo contendere, or no contest, or ever been sentenced, served time in jail or prison, or had deferred prosecution or sentence deferred in any felony or undesignated offense;
    - j. Whether the applicant has committed an act of unprofessional conduct as defined in A.R.S. § 32-1601;
    - k. Completed fingerprint card if the applicant has not submitted a fingerprint card to the Board within the last two years; and
    - l. Signature verifying the truthfulness of the information provided;
    - m. An official transcript from an institution accredited under A.R.S. § 32-1644 either sent directly from the institution or obtained from a Board-approved database that provides evidence of a graduate degree with a major in nursing.
3. For a CNS applicant, submit evidence that the applicant completed a program in a clinical specialty that prepared the applicant to practice as a CNS, as part of a graduate degree or post-masters program, either directly from the program or a Board-approved database.
  4. For an RNP applicant, submit evidence of completion of an RNP program in the specialty area for which the applicant is applying either directly from the program or from a reliable data base and one of the following:
    - a. Evidence of completion of an RNP program that was part of a graduate degree, or post-masters program at an institution accredited under A.R.S. 32-1644;
    - b. Evidence of completion of a Board-approved RNP program;
    - c. An official transcript from an RNP program offered by or affiliated with a college or university accredited under A.R.S. § 32-1644, which was at least nine months or two full-time semesters in duration and included theory and clinical experience; or
    - d. If the program was not provided by an accredited college or university but is located in the U.S. or territories; an official transcript, a copy of a certificate, or an official letter that shows the program:
      - i. Was at least nine months in length or equivalent to two semesters full-time study, or contained

## Board of Nursing

- didactic and at least 500 hours clinical instruction;
    - ii. Contained theory and clinical experiences sufficient to prepare the graduate to practice within the category and specialty area of practice for which the nurse is applying under A.R.S. § 32-1601; and
    - iii. Was a RNP program recognized by the jurisdiction where it was located for the purpose of granting nurse practitioner licensure or certification.
  - 5. For an applicant who completed an RNP program, CNS program, or graduate program in a foreign jurisdiction, submit an evaluation from the Commission on Graduates of Foreign Nursing Schools or a Board-approved credential evaluation service that indicates the applicant's program is comparable to a U.S. graduate nursing program, clinical nurse specialist program, or registered nurse practitioner program in the specialty area;
  - 6. For a Clinical Nurse Specialist or Certified Nurse Midwife applicant, or for a Registered Nurse Practitioner applicant submitting an application after July 1, 2004, submit verification of current national certification or recertification in the applicant's category and specialty, as applicable, from a certifying body that meets the criteria in R4-19-501(B)(3);
  - 7. For a CNS applicant who submits an application to the Board, and completed a maternal-child clinical nurse specialist program that meets the requirements of subsection (A)(3), but cannot be nationally certified due to lack of a certification exam that meets the requirements of R4-19-501, submit:
    - a. A description of the applicant's scope of practice that is consistent with A.R.S. § 32-1601(6);
    - b. One of the following:
      - i. A letter from a faculty member who supervised the applicant during the graduate program attesting to the applicant's competence to practice within the defined scope of practice;
      - ii. A letter from a supervisor verifying the applicant's competence in the defined scope of practice; or
      - iii. A letter from a physician, RNP, or CNS attesting to the applicant's competence in the defined scope of practice; and
    - c. A form verifying that the applicant has practiced a minimum of 500 hours in the specialty area within the past two years, which may include clinical practice time in a CNS program; and
  - 8. Submit the required fee.
- B.** The Board shall continue to certify:
  - 1. An RNP without a graduate degree with a major in nursing if the applicant:
    - a. Meets all other requirements for certification; and
    - b. Provides evidence, directly from the jurisdiction, of certification or licensure in the advanced practice category and specialty in this or another state or territory of the United States, that either is current or was current at least six months before the application was received by the Board, and was originally issued:
      - i. Before January 1, 2001, if the RNP applicant lacks a graduate degree; or
      - ii. Before November 13, 2005 if the RNP's graduate degree is in a health-related area other than nursing.
  - 2. An RNP or CNS applicant without evidence of national certification who received initial advanced practice certification or licensure in another state not later than July 1, 2004 and provides evidence, directly from the jurisdiction, that the certification or licensure is current; and
  - 3. A CNS applicant who received initial certification or advanced practice licensure in this or another state not later than November 13, 2005 and provides evidence, directly from the jurisdiction, that the certificate or license is current without evidence that the applicant completed a program in a clinical specialty.
- C.** The Board shall issue a certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a specialty area to a registered nurse who meets the criteria in this Section. An applicant who is denied a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

Adopted effective February 20, 1980 (Supp. 80-1). Former Section R4-19-56 repealed, new Section R4-19-56 adopted effective July 16, 1984 (Supp. 84-4). Former Section R4-19-56 renumbered as Section R4-19-504 (Supp. 86-1). Former Section R4-19-504 renumbered to R4-19-505, new Section R4-19-504 adopted effective November 18, 1994 (Supp. 94-4). Former Section R4-19-504 renumbered to Section R4-10-505; new Section R4-19-504 renumbered from R4-19-503 and amended effective November 25, 1996 (Supp. 96-4). Amended effective January 10, 1997 (Supp. 97-1). Amended by final rulemaking at 5 A.A.R. 3911, effective September 28, 1999 (Supp. 99-3). Former R4-19-505 renumbered to R4-19-508; new R4-19-505 renumbered from R4-19-504 and amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in subsection (A)(7)(a) was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

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

- A.** An advanced practice certificate issued after July 1, 2004, expires when the certificate holder's RN license expires. Certificates issued on or before July 1, 2004 or those issued without proof of national certification under R4-19-505(A)(7) and (B)(2) do not expire unless the RN license expires under A.R.S. § 32-1642 or the nurse has not practiced advanced practice nursing at the applicable level of certification for a minimum of 960 hours in the five years before the date the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
  - 1. Completed an advanced practice nursing education program within the past five years; or
  - 2. Practiced for a minimum of 960 hours within the past five years where the nurse:
    - a. Worked for compensation or as a volunteer, as an RNP or CNS, and performed one or more acts under A.R.S. § 32-1601(6) for a CNS or A.R.S. § 32-1601(19) for an RNP; or
    - b. Held a position for compensation or as a volunteer that required or recommended, in the job descrip-

tion, the level of advanced practice certification being sought or renewed.

- B. A registered nurse requesting renewal of an advanced practice certificate or an RNP certificate issued after July 1, 2004 shall provide evidence of current national certification or recertification under R4-19-505(A)(6). This provision does not apply to a CNS granted a waiver of certification.
- C. An advanced practice nurse requesting renewal of an advanced practice certificate who does not satisfy the practice requirement of subsection (A) shall either:
  - 1. Provide evidence of current national certification in the category and specialty area of Board certification; or
  - 2. Complete coursework or continuing education activities at the graduate or advanced practice level that includes, at minimum, 45 contact hours of advanced pharmacology and 45 contact hours in a subject or subjects related to the category and specialty area of certification. Upon completion of the coursework, the nurse shall engage in a period of precepted clinical practice as specified in this subsection:
    - a. Precepted clinical practice shall be directly supervised by an advanced practice nurse in the same category and specialty area as the certification renewed or a physician who engages in practice with the same population as the certification being renewed.
    - b. Practice hours completed during the time-frame specified below may be applied to reduce the number of precepted clinical practice hours, except that in no case shall the hours be reduced by more than half the requirement. The nurse shall complete hours according to the following schedule:
      - i. 300 hours if the applicant has practiced less than 960 hours in only the last five years;
      - ii. 600 hours if the applicant has not practiced 960 hours in the last five years, but has practiced at least 960 hours in the last six years;
      - iii. 1000 hours if the applicant has not practiced at least 960 hours in the last six years, but has practiced 960 hours in the last seven to 10 years; or
    - c. If the nurse has not practiced 960 hours of advanced practice nursing in the category and specialty area being renewed in more than 10 years, complete a program of study as recommended by an approved advanced practice nursing program that includes, at minimum, 500 hours of faculty supervised clinical practice in the category and specialty area of certification. An applicant who qualifies for any option in subsection (C)(2)(b) may complete the requirements of this subsection to satisfy the practice requirement.
- D. The Board shall renew a certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a specialty area for a registered nurse who meets the criteria in this Section. An applicant who is denied renewal of a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

#### Historical Note

Section R4-19-506 renumbered from R4-19-505 effective November 18, 1994 (Supp. 94-4). Former Section R4-19-506 renumbered to R4-19-510, new Section R4-19-506 adopted effective November 25, 1996 (Supp. 96-4). Former R4-19-506 renumbered to R4-19-510; new Section R4-19-506 made by final rulemaking at 11 A.A.R. 3804,

effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citations in subsection (A)(2)(a) were updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

#### R4-19-507. Temporary Advanced Practice Certificate

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

#### Historical Note

Adopted effective November 25, 1996 (Supp. 96-4). Amended by final rulemaking at 5 A.A.R. 4300, effective October 18, 1999 (Supp. 99-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2).

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

- A. An RNP shall refer a patient to a physician or another health care provider if the referral will protect the health and welfare of the patient and consult with a physician and other health care providers if a situation or condition occurs in a patient that is beyond the RNP's knowledge and experience.
- B. In addition to the scope of practice permitted a registered nurse, a registered nurse practitioner, under A.R.S. §§ 32-



## Board of Nursing

1601(19) and 32-1606(B)(12), may perform the following acts within the limits of the specialty area of certification:

1. Examine a patient and establish a medical diagnosis by client history, physical examination, and other criteria;
2. For a patient who requires the services of a health care facility:
  - a. Admit the patient to the facility,
  - b. Manage the care the patient receives in the facility, and
  - c. Discharge the patient from the facility;
3. Order and interpret laboratory, radiographic, and other diagnostic tests, and perform those tests that the RNP is qualified to perform;
4. Identify, develop, implement, and evaluate a plan of care for a patient to promote, maintain, and restore health;
5. Perform therapeutic procedures that the RNP is qualified to perform;
6. Prescribe treatments;
7. If authorized under R4-19-511, prescribe and dispense drugs and devices; and
8. Perform additional acts that the RNP is qualified to perform.

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

**Historical Note**

Adopted effective February 25, 1987 (Supp. 87-1). Former Section R4-19-505 renumbered to R4-19-506, new Section R4-19-505 renumbered from R4-19-504 effective November 18, 1994 (Supp. 94-4). Former Section R4-19-505 repealed, new Section R4-19-505 renumbered from R4-19-504 and amended effective November 25, 1996 (Supp. 96-4). Amended by final rulemaking at 5 A.A.R. 4300, effective October 18, 1999 (Supp. 99-4). Former R4-19-508 renumbered to R4-19-513; new R4-19-508 renumbered from R4-19-505 and amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 1483, effective June 2, 2007 (Supp. 07-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore one of the A.R.S. citations in subsection (B) was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**R4-19-509. Delegation to Medical Assistants**

- A. Under A.R.S. §§ 32-1456 and 32-1601(19)(d)(vii), an RNP may delegate patient care to a medical assistant in an office or outpatient setting. The RNP shall verify that a medical assistant to whom the RNP delegates meets at least one of the following qualifications:
1. Completed an approved medical assistant training program as defined in A.A.C. R4-16-101(3);
  2. If a graduate of an unapproved medical assistant training program, passed the medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists;
  3. Completed an unapproved medical assistant training program and was employed as a medical assistant on a continuous basis since completion of the program before February 2, 2000;

4. Was directly supervised by the same registered nurse practitioner for at least 2000 hours before February 2, 2000; or
5. Completed a medical services training program of the Armed Forces of the United States.

- B. A medical assistant may perform, under the delegation and direct supervision, as defined in A.R.S. § 32-1401, of a registered nurse practitioner, those acts authorized under A.R.S. § 32-1456(A) and A.A.C. R4-16-402.

**Historical Note**

Adopted effective November 25, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 4300, effective October 18, 1999 (Supp. 99-4). New Section made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore one of the A.R.S. citations in subsection (A) was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**R4-19-510. Expired****Historical Note**

Section renumbered from R4-19-506 and amended effective November 25, 1996 (Supp. 96-4). Section repealed made by final rulemaking at 10 A.A.R. 792, effective April 3, 2004 (Supp. 04-1). Section R4-19-510 renumbered from R4-19-506 and amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1093, effective March 24, 2011 (Supp. 11-2).

**R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts**

- A. The Board shall authorize an RNP to prescribe and dispense (P&D) drugs and devices within the RNP's specialty area and category of practice only if the RNP does all of the following:
1. Obtains authorization by the Board to practice as a registered nurse practitioner;
  2. Applies for prescribing and dispensing privileges on the application for registered nurse practitioner certification;
  3. Submits a completed application on a form provided by the Board that contains all of the following information:
    - a. Name, address, and home telephone number;
    - b. Arizona registered nurse license number, or copy of compact license;
    - c. Nurse practitioner specialty;
    - d. Nurse practitioner certification number issued by the Board;
    - e. Business address and telephone number; and
    - f. A sworn statement verifying the truthfulness of the information provided;
  4. Submits evidence of a minimum of 45 contact hours of education within the three years immediately preceding the application, covering one or both of the following topics:
    - a. Pharmacology, or
    - b. Clinical management of drug therapy, and
  5. Submits the required fee.
- B. An applicant who is denied P & D authority may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the P & D authority. Board hearings shall comply with A.R.S. Title 41, Chapter 6, Article 10, and 4 A.A.C. 19, Article 6.

- C. An RNP shall not prescribe or dispense drugs or devices without Board authority or in a manner inconsistent with law. The Board may impose an administrative or civil penalty for each violation, suspend the RNP's P & D authority, or impose other sanctions under A.R.S. § 32-1606(C). In determining the appropriate sanction, the Board shall consider factors such as the number of violations, the severity of each violation, and the potential for or existence of patient harm.
- D. In addition to acts listed under R4-19-403, for a nurse who prescribes or dispenses a drug or device, a practice that is or might be harmful to the health of a patient or the public, includes one or more of the following:
  1. Prescribing a controlled substance to one's self or a member of the nurse's family;
  2. Providing any controlled substance or prescription-only drug or device for other than accepted therapeutic purposes;
  3. Prescribing an amphetamine or similar Class II drug, in the treatment of exogenous obesity, for a period in excess of 30 days within a 12-month period for an individual; or the non-therapeutic use of injectable amphetamines;
  4. Delegating the prescribing and dispensing of drugs or devices to any other person; and
  5. Prescribing, dispensing, or furnishing a prescription drug or a prescription-only device to a person unless the nurse has examined the person and established a professional relationship, except when the nurse is engaging in one or more of the following:
    - a. Providing temporary patient care on behalf of the patient's regular treating and licensed health care professional;
    - b. Providing care in an emergency medical situation where immediate medical care or hospitalization is required by a person for the preservation or health, life, or limb; or
    - c. Furnishing a prescription drug to prepare a patient for a medical examination.
- E. An RNP whose DEA registration is revoked or expires shall not prescribe controlled substances. An RNP whose DEA registration is revoked or limited shall report the action to the Board.
- F. In all outpatient settings or at the time of hospital discharge, an RNP with P & D authority shall personally provide a patient or the patient's representative with the name of the drug, directions for use, and any special instructions, precautions, or storage requirements necessary for safe and effective use of the drug if any of the following occurs:
  1. A new drug is prescribed or there is a change in the dose, form, or direction for use in a previously prescribed drug;
  2. In the RNP's professional judgment, these instructions are warranted; or
  3. The patient or patient's representative requests instruction.
- G. An RNP with P & D authority shall ensure that all prescription orders contain the following:
  1. The RNP's name, address, telephone number, and specialty area;
  2. The prescription date;
  3. The name and address of the patient;
  4. The full name of the drug, strength, dosage form, and directions for use;
  5. The letters "DAW", "dispense as written", "do not substitute", "medically necessary" or any similar statement on the face of the prescription form if intending to prevent substitution of the drug;
  6. The RNP's DEA registration number, if applicable; and
  7. The RNP's signature.

#### Historical Note

Former R4-19-512 renumbered to R4-19-514; new R4-19-512 made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (05-3).

#### R4-19-513. Dispensing Drugs and Devices

- A. A registered nurse practitioner (RNP) granted prescribing and dispensing authority by the Board may:
  1. Dispense drugs and devices to patients;
  2. Dispense samples of drugs packaged for individual use without a prescription order or additional labeling;
  3. Only dispense drugs and devices obtained directly from a pharmacy, manufacturer, wholesaler, or distributor; and
  4. Allow other personnel to assist in the delivery of medications provided that the RNP retains responsibility and accountability for the dispensing process.
- B. If dispensing a drug or device, an RNP with dispensing authority shall:
  1. Ensure that the patient has a written prescription that complies with R4-19-512(F) and inform the patient that the prescription may be filled by the prescribing RNP or by a pharmacy of the patient's choice;
  2. Affix a prescription number to each prescription that is dispensed; and
  3. Ensure that all original prescriptions are preserved for a minimum of seven years and make the original prescriptions available at all times for inspection by the Board of Nursing, Board of Pharmacy, and law enforcement officers in performance of their duties.
- C. An RNP practicing in a public health facility operated by this state or a county or in a qualifying community health center under A.R.S. § 32-1921(F) may dispense drugs or devices to patients without a written prescription if the public health facility or the qualifying community health center adheres to all storage, labeling, safety, and recordkeeping rules of the Board of Pharmacy.

#### Historical Note

Adopted effective November 25, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3).

#### R4-19-512. Prescribing Drugs and Devices

- A. An RNP granted P & D authority by the Board may:
  1. Prescribe drugs and devices;
  2. Provide for refill of prescription-only drugs and devices for one year from the date of the prescription.
- B. An RNP with P & D authority who wishes to prescribe a controlled substance shall obtain a DEA registration number before prescribing a controlled substance. The RNP shall file the DEA registration number with the Board.
- C. An RNP with a DEA registration number may prescribe:
  1. A Class II controlled substance as defined in the federal Uniform Controlled Substances Act, 21 U.S.C. § 801 et seq., or Arizona's Uniform Controlled Substances Act, A.R.S. Title 36, Chapter 27, but shall not prescribe refills of the prescription;
  2. A Class III or IV controlled substance, as defined in the federal Uniform Controlled Substances Act or Arizona's Uniform Controlled Substances Act, and may prescribe a maximum of five refills in six months; and
  3. A Class V controlled substance, as defined in the federal Uniform Controlled Substances Act or Arizona's Uniform Controlled Substances Act, and may prescribe refills for a maximum of one year.

## Board of Nursing

- D.** An RNP with dispensing authority shall ensure that a drug is dispensed with a label that contains all of the following information:
1. Dispensing RNP's name and specialty area;
  2. Address and telephone number of the location at which the drug is dispensed;
  3. Date dispensed;
  4. Patient's name and address;
  5. Name and strength of the drug, quantity in the container, directions for use, and any cautionary statements necessary for the safe and effective use of the drug;
  6. Manufacturer and lot number; and
  7. Prescription order number.
- E.** An RNP with dispensing authority shall ensure that the following information about the drug or device is entered into the patient's medical record:
1. Name of the drug, strength, quantity, directions for use, and number of refills;
  2. Date dispensed;
  3. Therapeutic reason;
  4. Manufacturer and lot number; and
  5. Prescription order number.
- F.** An RNP with dispensing authority shall:
1. Keep all drugs in a locked cabinet or room in an area that is not accessible to patients;
  2. If dispensing a controlled substance:
    - a. Control access by a written policy that specifies:
      - i. Those persons allowed access, and
      - ii. Procedures to report immediately the discovery of a shortage or illegal removal of drugs to a local law enforcement agency and provide that agency and the DEA with a written report within seven days of the discovery;
    - b. Maintain and make available to the Board upon request an ongoing inventory and record of:
      - i. A Schedule II controlled substance, as defined in the federal Uniform Controlled Substances Act or Arizona's Uniform Controlled Substances Act, separately from all other records, and a prescription for a Schedule II controlled substance in a separate prescription file; and
      - ii. A Schedule III, IV, or V controlled substance, as defined in the federal Uniform Controlled Substances Act or Arizona's Uniform Controlled Substances Act, in a form that is readily retrievable from other records.
- G.** If a prescription order is refilled, an RNP with P & D authority shall record the following information on the back of the prescription order or in the patient's medical record:
1. Date refilled,
  2. Quantity dispensed if different from the full amount of the original prescription,
  3. RNP's name or identifiable initials, and
  4. Manufacturer and lot number.
- H.** Under the supervision of an RNP with P & D authority, other personnel may:
1. Receive and record a prescription refill request from a patient or a patient's representative;
  2. Receive and record a verbal refill authorization from the RNP including:
    - a. The RNP's name;
    - b. Date of refill;
    - c. Name, directions for use, and quantity of drug; and
    - d. Manufacturer and lot number;
  3. Prepare and affix a prescription label; and
  4. Prepare a drug or device for delivery, provided that the dispensing RNP:
    - a. Inspects the drug or device and initials the label before issuing to the patient to ensure compliance with the prescription; and
    - b. Ensures that the patient is informed of the name of the drug or device, directions for use, precautions, and storage requirements.
- Historical Note**  
Adopted effective November 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 5 A.A.R. 4300, effective October 18, 1999 (Supp. 99-4). Former R4-19-513 renumbered to R4-19-515; new R4-19-513 renumbered from R4-19-508 and amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3).
- R4-19-514. Scope of Practice of the Clinical Nurse Specialist**  
In addition to the functions of a registered nurse, a clinical nurse specialist, under A.R.S. § 32-1601(6), may perform one or more of the following for an individual, family, or group within the specialty area of certification:
1. Perform a comprehensive assessment, analysis, and evaluation of a patient's complex health needs;
  2. Diagnose symptoms, functional problems, risk behaviors, and health status;
  3. Direct health care as an advanced clinician;
  4. Develop, implement, and evaluate a treatment plan according to a patient's need for specialized nursing care;
  5. Establish nursing standing orders, algorithms, and practice guidelines related to interventions and specific plans of care;
  6. Manage health care according to written protocols;
  7. Facilitate system changes on a multidisciplinary level to assist a health care facility and improve patient outcomes cost-effectively;
  8. Consult with the public and professionals in health care, business, and industry in the areas of research, case management, education, and administration;
  9. Perform psychotherapy if certified as a clinical nurse specialist in adult or child and adolescent psychiatric and mental health nursing;
  10. Prescribe and dispense durable medical equipment; or
  11. Perform additional acts that the clinical nurse specialist is qualified to perform.
- Historical Note**  
Adopted effective November 25, 1996 (Supp. 96-4). Section R4-19-514 renumbered from R4-19-512 and amended by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in the opening subsection was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).
- R4-19-515. Repealed**
- Historical Note**  
Section adopted by final rulemaking at 6 A.A.R. 335, effective December 20, 1999 (Supp. 99-4). Section R4-19-515 renumbered from R4-19-513 by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3). Repealed by final rulemaking at 18 A.A.R. 2140, effective August 8, 2012 (Supp. 12-3).

**R4-19-516. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 3804, effective November 12, 2005 (Supp. 05-3).  
Repealed by final rulemaking at 18 A.A.R. 2140, effective August 8, 2012 (Supp. 12-3).

**ARTICLE 6. RULES OF PRACTICE AND PROCEDURE****R4-19-601. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 618, effective December 31, 2001 (Supp. 02-1). Section R4-19-601 renumbered from R4-19-602 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2692, effective August 31, 2011 (Supp. 11-4).

**R4-19-602. Letter of Concern**

A letter of concern issued by the Board is not an appealable agency action as defined in A.R.S. § 41-1092.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-602 renumbered to R4-19-601; new Section R4-19-602 made by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-603. Representation**

Any person subject to a hearing may participate in the hearing and may be represented by legal counsel. The Board shall not pay for the person's legal counsel.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-603 repealed; new Section R4-19-603 renumbered from R4-19-604 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-604. Notice of Hearing; Response**

- A. The Board, in consultation with the Office of Administrative Hearings, as necessary shall prepare and serve a written notice of hearing on all parties under A.R.S. § 41-1092.05.
- B. In addition to the notice requirements in A.R.S. § 41-1092.05(D), the Board shall include the following in the notice:
  1. The full name, address, and license number, if any, of the licensee, certificate holder, program, or applicant;
  2. The name, mailing address, and telephone number of the Board's executive director or Board designee if the hearing is to be conducted by the Board;
  3. A statement that a hearing will proceed without a party's presence if a party fails to attend or participate in the hearing;
  4. The names and mailing addresses of persons to whom notice is being given, including the Attorney General representing the state at the hearing; and
  5. Any other matters relevant to the proceedings.
- C. The party named in the notice of hearing shall file a written response under A.R.S. § 32-1664 within 30 days after service of the notice of hearing. The response shall contain:
  1. The party's name, address, and telephone number;
  2. Whether the party has legal representation and, if so, the name and address of the attorney;
  3. A response to the allegations contained in the notice of hearing; and

4. Any other matters relevant to the proceedings.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-604 renumbered to R4-19-603; new Section R4-19-604 renumbered from R4-19-605 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-605. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-605 renumbered to R4-19-604; new Section R4-19-605 renumbered from R4-19-606 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2692, effective August 31, 2011 (Supp. 11-4).

**R4-19-606. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-606 renumbered to R4-19-605; new Section R4-19-606 renumbered from R4-19-607 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2692, effective August 31, 2011 (Supp. 11-4).

**R4-19-607. Recommended Decision**

The Administrative Law Judge who conducts the hearing shall make a recommended decision under A.R.S. § 41-1092.08. The Board shall immediately transmit a copy of the recommended decision to each party. Each party may file a memorandum of objections for consideration at the next Board meeting that contains the reasons why the recommended decision is in error or requires correction, and includes appropriate citations to the record, statutes, or rules in support of each objection.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-607 renumbered to R4-19-606; new Section R4-19-607 renumbered from R4-19-612 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-608. Rehearing or Review of Decision**

- A. A party may file a motion for rehearing or review of a decision under A.R.S. §§ 41-1092.09 and 32-1665.
- B. The Board may grant a rehearing or review of the decision for any of the following causes materially affecting the moving party's rights:
  1. Irregularity in the administrative proceedings of the Board or the administrative law judge, or any order, or abuse of discretion, which deprived the moving party of a fair hearing;
  2. Misconduct of the Board, the administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or exclusion of evidence or other errors of law occurring during the pendency of the proceeding or at the administrative hearing; or

## Board of Nursing

7. The decision is not justified by the evidence or is contrary to law.

- C. Upon the Board's receipt of a motion for rehearing or review, the Board may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (B). An order granting a rehearing shall specify with particularity the grounds for the order. Any rehearing shall cover only those specified matters.
- D. Within the time limits of A.R.S. § 41-1092.09, the Board may order a rehearing or review on its own initiative for any of the reasons in subsection (B). The Board shall specify the grounds for the rehearing or review in the order.
- E. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days of such service, serve opposing affidavits.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective December 31, 2001 (Supp. 02-1). Section R4-19-608 renumbered from R4-19-614 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-609. Effectiveness of Orders**

- A. Except as provided in subsection (B), a decision is final upon expiration of the time for filing a request for rehearing or review or upon denial of such a request, whichever is later. If the Board grants a rehearing or review, the decision is stayed until another order is issued.
- B. If it finds that the public health, safety, or welfare imperatively requires emergency action, the Board may proceed under A.R.S. § 41-1092.11(B), ordering summary suspension of a license while other proceedings are pending. If the Board orders a summary suspension, a party shall exhaust the party's administrative remedies by filing a motion for rehearing or review under A.R.S. § 41-1092.09(B) before seeking judicial review of the decision.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective December 31, 2001 (Supp. 02-1). Section R4-19-609 renumbered from R4-19-615 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-610. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective December 31, 2001 (Supp. 02-1).

**R4-19-611. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective December 31, 2001 (Supp. 02-1).

**R4-19-612. Renumbered****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section renumbered to R4-19-607 by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-613. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section

expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective December 31, 2001 (Supp. 02-1).

**R4-19-614. Renumbered****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section renumbered to R4-19-608 by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-615. Renumbered****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Section renumbered to R4-19-609 by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES****R4-19-701. Expired****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2692, effective August 31, 2011 (Supp. 11-4).

**R4-19-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact**

A person may petition the Board, requesting the making of a final rule, or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, or objecting to a rule under A.R.S. § 41-1056.01, by filing a petition which contains the following:

1. The name, current address, and telephone number of the person submitting the petition.
2. For the making of a new rule, the specific language of the proposed rule.
3. For amendment of a current rule, the Arizona Administrative Code (A.A.C.) Section number, the Section heading, and the specific language of the current rule, with any language to be deleted stricken through but legible, and any new language underlined.
4. For repeal of a current rule, the A.A.C. Section number and Section heading proposed for repeal.
5. The reasons the rule should be made, specifically stating in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information including:
  - a. Any statistical data or other justification, with clear references to attached exhibits;
  - b. An identification of any person or segment of the public that would be affected and how they would be affected; and
  - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or written comments offered by the public.
6. For a review of an existing agency practice or substantive policy statement alleged to constitute a rule, the reasons the existing agency practice or substantive policy statement constitutes a rule and the proposed action requested of the Board.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
  - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer

- impact statement submitted during the making of the rule; or
- b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule.
8. The signature of the person submitting the petition.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4).  
Amended by final rulemaking at 9 A.A.R. 1288, effective  
June 3, 2003 (Supp. 03-2).

**R4-19-703. Oral Proceedings**

- A. The Board shall schedule an oral proceeding on all rulemakings and publish the notice as prescribed in A.R.S. § 41-1023. A Board member, the executive director, or a Board staff member shall serve as presiding officer at an oral proceeding.
- B. The Board shall record all oral proceedings either by an electronic recording device or stenographically, and any resulting cassette tapes or transcripts, registers, and all written comments received shall become part of the official record.
- C. The presiding officer shall conduct an oral proceeding according to A.R.S. § 41-1023; and
  1. Request each person in attendance register;
  2. Obtain the following information from any person who intends to speak:
    - a. Name and whether the person represents another;
    - b. Position with regard to the proposed rule; and
    - c. Approximate length of time needed to speak;
  3. Open the proceeding by identifying the subject matter of the rules under consideration and the purpose of the proceeding;
  4. Present the agenda;
  5. Ensure that a Board representative explains the background and general content of the proposed rules;
  6. Limit comments to a reasonable period, and prevent undue repetition of comments;
  7. Announce the address for written public comments and the date and time for the close of record; and
  8. Close the proceeding if there are no persons in attendance within 15 minutes after the posted meeting time.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-703 repealed; new Section R4-19-703 renumbered from R4-19-704 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-704. Petition for Altered Effective Date**

- A. A person wishing to alter the effective date of a rule shall file a written petition that contains:
  1. The name, current address, and telephone number of the person submitting the petition;
  2. Identification of the proposed rule;
  3. If the person is petitioning for an immediate effective date, a demonstration that the immediate date is necessary for one or more of the reasons in A.R.S. § 41-1032(A);
  4. If the person is petitioning for a later effective date, more than 60 days after filing of the rule, a demonstration under A.R.S. § 41-1032(B) that good cause exists for, and the public interest will not be harmed by, the later effective date; and
  5. The signature of the person submitting the petition.

- B. The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-704 renumbered to R4-19-703; new Section R4-19-704 renumbered from R4-19-705 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-705. Written Criticism of an Existing Rule**

- A. Any person may file with the Board a written criticism of an existing rule that contains:
  1. The rule addressed, and
  2. The reason the existing rule is inadequate, unduly burdensome, unreasonable, or improper.
- B. The Board shall acknowledge receipt of any criticism within 10 working days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

**Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4). Former Section R4-19-705 renumbered to R4-19-704; new Section R4-19-705 renumbered from R4-19-706 and amended by final rulemaking at 9 A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**R4-19-706. Renumbered****Historical Note**

Adopted effective October 10, 1996 (Supp. 96-4).  
Renumbered to R4-19-705 by final rulemaking at 9  
A.A.R. 1288, effective June 3, 2003 (Supp. 03-2).

**ARTICLE 8. CERTIFIED NURSING ASSISTANTS****R4-19-801. Standards for Nursing Assistant Training Programs**

- A. For the purposes of this Article “traineeship” means a clinical experience in which a nursing assistant student works with a facility staff member under the supervision of a licensed nurse to provide care for residents without an instructor onsite.
- B. Organization and administration
  1. A nursing assistant training program shall provide a description of the program that includes the length of the program, number of hours of clinical and classroom instruction, and program goals consistent with federal, state, and if applicable, private postsecondary requirements. The program shall provide a description that is consistent with the purpose, goals, and objectives of a parent institution, if any.
  2. A nursing assistant training program that uses external clinical facilities shall execute a written agreement with each external clinical facility that:
    - a. Defines the rights and responsibilities of both the clinical facility and the program,
    - b. Defines the role and authority of the governing bodies of both the clinical facility and the program,
    - c. Allows the program instructor the right to select learning experiences for students, and
    - d. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.
  3. A nursing assistant training program shall promulgate written policies and procedures that are consistent with the policies and procedures of the parent institution, if any, and contain an effective and review date for each policy or procedure. The program shall provide a copy of its policies and procedures to each student on or before the first day the student participates in the program. The

## Board of Nursing

- program shall develop and adhere to policies and procedures in the following areas:
- a. Student attendance ensuring that a student receives 120 hours of instruction or the equivalent of 120 hours;
  - b. Student grading, requiring that a student either attain at least 75% on each theoretical exam, or 75% on a comprehensive theoretical exam;
  - c. Test retake, if retake tests are allowed, informing students that a retake test:
    - i. Addresses the competencies tested in the original test,
    - ii. Contains different items from the original test, and
    - iii. Is documented in the student's record;
  - d. Student record maintenance including information regarding records retention, retention period, records location, and documents required under subsections (D)(5) and (6);
  - e. Instructor supervision of students in the clinical area, providing for:
    - i. A method to contact the instructor that ensures the instructor is available as needed;
    - ii. Instructor rounds for each student according to patient or resident need and student ability;
    - iii. Direct observation and documentation of student performance, consistent with course and clinical objectives; and
    - iv. Only activities related to the direct supervision of students during the clinical session.
  - f. Student fees and financial aid, if any;
  - g. Dismissal, advanced placement consistent with subsection (B)(4), and withdrawal policies;
  - h. Student grievance policy, including a chain of command for grade disputes;
  - i. Admission requirements, including any criminal background or drug testing required;
  - j. Program completion criteria; and
  - k. Notification of Board requirements for certification, including the criminal background check requirement, before enrolling a student.
4. In lieu of requiring completion of all course hours specified in R4-19-802, a nursing assistant training program may develop a policy that allows a student with at least one year full-time nursing assistant experience to demonstrate attainment of course objectives and clinical competencies consistent with curriculum requirements in R4-19-802(C). The program shall evaluate competency through a written comprehensive examination, skills testing, and at least 16 hours of clinical practice in a long-term care facility directly supervised by the registered nurse instructor. A program that develops a policy under this subsection shall submit a copy of the policy to the Board.
  5. Within 15 days of program completion, a nursing assistant training program shall provide a certificate of completion document, which contains the following, to each student who has completed the program:
    - a. The name and classroom location of the program;
    - b. The number of classroom and clinical hours in the program;
    - c. The number of traineeship hours, if any;
    - d. The end date of the program;
    - e. The program number, if known; and
  - f. The signature of the program coordinator, instructor, or the supervisor of the program coordinator or instructor.
6. A nursing assistant training program shall execute and maintain under subsection (D)(5) and (6) the following documents for each student:
    - a. A skills check-off list, containing documentation of competency of the nursing assistant skills in R4-19-802(C), and
    - b. A program evaluation form, containing the student's responses to questions about the quality of the classroom and clinical experiences during the training program.
- C. Program coordinator and instructor qualifications and responsibilities**
1. A program coordinator shall:
    - a. Hold a current, registered nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15; and
    - b. Possess at least two years of nursing experience at least one year of which is in the provision of long-term care facility services.
  2. A director of nursing in a health care facility may assume the role of a program coordinator for a nursing assistant training program based in the facility but shall not function as a program instructor.
  3. A program coordinator shall:
    - a. Supervise and evaluate the program;
    - b. Ensure that instructors meet Board qualifications; and
    - c. Ensure that the written policies in subsection (B) are available to students on or before the first day of the program;
  4. A program instructor shall:
    - a. Hold a current, registered nurse license that is active and in good standing under A.R.S. Title 32, Chapter 15; and
    - b. Possess one or more of the following:
      - i. Credit for a course on teaching adults,
      - ii. One year of experience teaching adults, or
      - iii. One year of experience supervising nursing assistants.
  5. For classroom and clinical, excluding hours spent in a traineeship, a program instructor shall:
    - a. Plan each learning experience;
    - b. Accomplish course goals and lesson objectives;
    - c. Enforce a grading policy that meets or exceeds the requirements of subsection (B)(3)(b);
    - d. Require satisfactory performance of all critical elements of each nursing assistant skill under R4-19-802(C);
    - e. Prevent a student from performing an activity unless the student has received instruction and been found to competently perform the activity;
    - f. Supervise any student who provides care to clients in clinical areas, consistent with the requirements of subsection (B)(3)(e);
    - g. Be present in the classroom during all instruction; and
    - h. Supervise health care professionals and clinical instructors who assist in providing program instruction.
  6. A certified or licensed health care professional shall not assist the program instructor unless the health care professional has at least one year of experience in the field of licensure or certification and the learning activity is

within the scope of practice of the licensee or certificate holder. A certified nursing assistant shall not provide classroom or clinical instruction in a nursing assistant training program.

**D. Clinical requirements, resources, and records**

1. A nursing assistant training program shall provide a minimum of one clinical instructor for every 10 students if students perform one or more nursing assistant activities for a patient or resident. The program shall ensure that the instructor is physically present in the health care setting during each performance of a nursing assistant activity for a patient or resident.
2. A nursing assistant training program shall provide an instructor-supervised clinical experience for each nursing assistant student, which consists of at least 40 hours of direct patient or resident care, and includes at least 20 hours caring for long-term care facility residents. If there is no long-term care facility available within a 50-mile radius of the program, the program may conduct clinical sessions in a healthcare institution that provides experiences with patients or residents who have nursing care needs similar to those of long-term care facility residents.
3. A nursing assistant training program shall ensure that each nursing assistant student is identified as a student by a name badge or another means readily observable to staff, patients, or residents and not utilize students as staff during clinical and traineeship experiences.
4. A nursing assistant training program shall provide or have access to instructional and educational resources for implementing the program, for the planned number of students and instructional staff, including:
  - a. Current reference materials, related to the level of the curriculum;
  - b. Equipment in functional condition for simulating patient care, including:
    - i. A patient bed, overbed table, and nightstand;
    - ii. Privacy curtains and call bell;
    - iii. Thermometers, stethoscopes, including a teaching stethoscope, blood pressure cuffs, and a balance-type scale;
    - iv. Hygiene supplies, elimination equipment, drainage devices, and linens;
    - v. Hand washing equipment and clean gloves; and
    - vi. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
  - c. Audio-visual equipment and media; and
  - d. Designated space for didactic teaching and skill practice that provides a clean, distraction-free learning environment for accomplishing the educational goals of the program and is comparable to the space provided by a previously approved program of similar size and type, if any;
5. A nursing assistant training program shall maintain the following program records for three years:
  - a. Curriculum and course schedule for each cohort group;
  - b. Results of state-approved written and manual skills testing;
  - c. Completed student program evaluation forms, a summary of the evaluations for each cohort group, and measures taken by the program, if any, to improve the program based on student and instructor evaluation; and
  - d. A copy of any Board reports, applications, or correspondence, related to the program.

6. A nursing assistant training program shall maintain the following student records for three years:
  - a. A record of the student's name, date of birth, and Social Security number, if available;
  - b. A completed skill checklist;
  - c. Attendance record, which describes any make-up class sessions;
  - d. Scores on each test, quiz, or exam and, if applicable, whether such test quiz or exam was retaken; and
  - e. For programs with traineeships, documentation from the registered nurse supervising the traineeship that indicates the number of hours completed and the performance of the student during the traineeship; and
  - f. A copy of the certificate of completion issued to the student upon successful completion of the training program.

**E. Periodic evaluation**

1. A nursing assistant training program shall permit the Board, or a state agency designated by the Board, to conduct an onsite scheduled evaluation for initial Board approval, in accordance with R4-19-803, and renewal of approval, in accordance with R4-19-804.
2. For reasonable cause, as determined by the Board, a nursing assistant training program shall permit the Board, or a state agency designated by the Board, to conduct an onsite unannounced evaluation of the program.

**F. A nursing assistant training program shall submit written documentation and information regarding the following changes within 30 days of instituting the change:**

1. For a change or addition of an instructor or coordinator, the name, license number, and documentation of meeting coordinator or instructor requirements of this Section, as applicable;
2. For a decrease in the number of program hours, a description of the change, the reason for the change, a revised curriculum outline, and a revised course schedule;
3. For a change in classroom location, the address of the new location, if applicable, and a description of the new classroom;
4. For a change in a clinical facility, the name of the new facility and a copy of the clinical contract; and
5. For a change in the name or ownership of the facility, the former, present and new name of the facility.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-802. Curriculum**

- A.** A nursing assistant training program shall provide at least 120 hours of instruction which can be met by the student completing either of the following:
1. A 120 hour curriculum consisting of at least 60 hours of classroom instruction with clinical instruction that satisfies the requirements of R4-19-801(D)(2); or
  2. A curriculum of at least 60 hours of classroom instruction and 40 hours of supervised, clinical instruction that satisfies the requirements R4-19-801(D)(2), followed by a long-term care facility-based traineeship. The program coordinator shall ensure that the traineeship experience:
    - a. Consists of no more than 20 hours of the total 120 hours, and
    - b. Is verified by the supervising nurse in a written document that contains the number of hours provided



## Board of Nursing

through the traineeship and confirmation that the student has demonstrated required skills and abilities, competently performed nursing assistant functions, and met course objectives.

- B.** A nursing assistant training program shall provide a written curriculum plan to each student that includes overall course goals and for each required subject:

1. Measurable learner-centered objectives;
2. An outline of the material to be taught;
3. The time allotted for each unit of instruction; and
4. The learning activities or reading assignments.

- C.** A nursing assistant training program shall provide classroom and clinical instruction regarding each of the following subjects:

1. Communication, interpersonal skills, and documentation;
2. Infection control;
3. Safety and emergency procedures, including the Heimlich® maneuver and cardiopulmonary resuscitation instruction;
4. Patient or resident independence;
5. Patient or resident rights, including:
  - a. The right to confidentiality;
  - b. The right to privacy;
  - c. The right to be free from abuse, mistreatment, and neglect;
  - d. The right to make personal choices;
  - e. The right to obtain assistance in resolving grievances and disputes;
  - f. The right to care and security of a patient's or resident's personal property; and
  - g. The right to be free from restraints;
6. Recognizing and reporting abuse, mistreatment or neglect to a supervisor;
7. Basic nursing assistant skills, including:
  - a. Taking vital signs, height, and weight;
  - b. Maintaining a patient's or resident's environment;
  - c. Observing and reporting pain;
  - d. Assisting with diagnostic tests;
  - e. Providing care for patients or residents with drains and tubes;
  - f. Recognizing and reporting abnormal changes to a supervisor;
  - g. Applying clean bandages;
  - h. Providing peri-operative care; and
  - i. Assisting in admitting, transferring, or discharging patients or residents.
8. Personal care skills, including:
  - a. Bathing, skin care, and dressing;
  - b. Oral and denture care;
  - c. Shampoo and hair care;
  - d. Fingernail care;
  - e. Toileting, perineal, and ostomy care; and
  - f. Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding;
9. Age specific, mental health, and social service needs, including:
  - a. Modifying the nursing assistant's behavior in response to patient or resident behavior;
  - b. Demonstrating an awareness of the developmental tasks associated with the aging process;
  - c. Responding to patient or resident behavior;
  - d. Promoting patient or resident dignity;
  - e. Providing culturally sensitive care;
  - f. Caring for the dying patient or resident; and
  - g. Interacting with the patient's or resident's family;

10. Care of the cognitively impaired patient or resident including;

- a. Addressing the unique needs and behaviors of patients or residents with dementia;
- b. Communicating with cognitively impaired patients or residents;
- c. Understanding the behavior of cognitively impaired patients or residents; and
- d. Reducing the effects of cognitive impairment;

11. Skills for basic restorative services, including:

- a. Body mechanics;
- b. Resident self-care;
- c. Assistive devices used in transferring, ambulating, eating, and dressing;
- d. Range of motion exercises;
- e. Bowel and bladder training;
- f. Care and use of prosthetic and orthotic devices; and
- g. Family and group activities;

12. Health care team member skills including time management and prioritizing work; and

13. Legal aspects of nursing assistant practice, including:

- a. Board-prescribed requirements for certification and re-certification;
- b. Delegation;
- c. Ethics;
- d. Advance directives and do-not-resuscitate orders; and
- e. Standards of conduct under R4-19-814.

14. Body structure and function, together with common diseases and conditions of the elderly.

- D.** A nursing assistant training program shall provide a student with a minimum of 16 hours instruction in the subjects identified in subsections (C)(1) through (C)(6) before allowing a student to care for patients or residents.

- E.** A nursing assistant training program shall utilize a nursing assistant textbook that has been published within the previous five years.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-803. Initial Approval of Nursing Assistant Training Programs**

- A.** An applicant for initial nursing assistant training program approval shall submit an application packet to the Board at least 90 days before the expected starting date of the program. An applicant shall submit application documents that are unbound, typed or word processed, single-sided, and on white, letter-size paper. The Board does not accept notebooks, spiral bound documents, manuals, books, or tabulations.

- B.** The application packet for initial program approval shall include all of the following:

1. Name, address, telephone number, and fax number of program;
2. Identity of the program as a long-term care facility-based or other program;
3. Name, license number, telephone number and qualifications of the program coordinator required in R4-19-801;
4. Name, license number, telephone number and qualifications of each program instructor required in R4-19-801;
5. Name and telephone number of the person with administrative oversight of the nursing assistant training program;

6. Accreditation status of the applicant, if any, including the name of the accrediting body and date of last review;
  7. Name, address, telephone number, contact person, Department of Health Services (DHS) status, and most recent DHS review for all health care institutions where program classroom or clinical instruction will take place;
  8. Medicare certification status, if any;
  9. Evidence of compliance with R4-19-801 and R4-19-802, including all of the following:
    - a. Program description, consistent with R4-19-801(B)(1) and an implementation plan, including timelines;
    - b. Classroom facilities, equipment, and instructional tools available, consistent with R4-19-801(D)(4); and
    - c. Written curriculum, consistent with R4-19-802;
    - d. A copy of the documentation that the program will use to verify nurse assistant skills for each student, consistent R4-19-801(B)(6)(a);
    - e. A copy of the document issued to the student upon completion of the program, consistent with R4-19-801(B)(5);
    - f. Textbook author, name, year of publication, and publisher; and
    - g. A copy of course policies, consistent with R4-19-801(B)(3) and, if applicable, R4-19-801(B)(4);
  10. For a Medicare or Medicaid certified long-term care facility-based program, a signed, sworn, and notarized document, executed by a program coordinator, affirming that the program does not require a nursing assistant student to pay a fee for any portion of the program including the state competency exam.
  11. For a Medicare or Medicaid long-term care facility-based program, the actual price of a textbook and other loaned equipment, if the program charges a student who does not return these items upon course completion, and any commercially available standard uniform, watch, pen, paper, duty shoes, and other commonly available personal items that are required for the course, for which a student may incur an expense.
- C.** Following receipt and review of a complete application packet, the Board shall take one of the following actions:
1. Schedule an onsite evaluation of the program and, if requirements are met, approve the program for a period not to exceed two years,
  2. Approve the program for a period that does not exceed one year if requirements are met, without an onsite visit, or
  3. Deny approval of the program if the applicant does not meet the requirements.
- D.** A program shall not conduct classes before receiving program approval.
- E.** If approval is in the best interest of the public, the Board shall grant initial approval to any applicant who meets requirements in A.R.S. Title 32, Chapter 15, and in this Article. If the Board denies approval, an applicant may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

#### R4-19-804. Renewal of Approval of Nursing Assistant Training Programs

- A.** A nursing assistant training program applying for renewal of approval shall submit an application packet to the Board before expiration of the current approval. An applicant shall submit application documents that are unbound, typed or word processed, single-sided, and on white, letter-size paper. The Board does not accept notebooks, spiral bound documents, manuals, books, or tabulations.
1. The application packet shall include the following:
    - a. A program description and course goals;
    - b. Name, license number, and qualifications under R4-19-801 of the current program coordinator and instructors, required in R4-19-801;
    - c. A copy of the current curriculum plan, which meets the requirements in R4-19-802;
    - d. Number of classes held, number of students who have completed the program, and the results of the state-approved written and manual skills tests, including first-time pass rate since the last program review;
    - e. A copy of course policies, consistent with R4-19-801;
    - f. Any change in resources, contracts, or clinical facilities since the previous approval;
    - g. A copy of current student program evaluation forms, a summary of the evaluations for each cohort group, and measures taken by the program, if any, to improve the program based on student and instructor evaluation;
    - h. A sample of the certificate of completion issued to a graduate of the program containing the information required by R4-19-801(B)(5); and
    - i. Textbook author, name, year of publication, and publisher.
  2. Following receipt of the application packet, a Board representative shall review the application packet for completeness under subsection (A)(1). In addition to the other requirements in this Section, an applicant shall provide evidence of at least one of the following to provide a complete application packet:
    - a. That at least one person has completed the program and the state-approved written and manual skills exam within the previous approval period;
    - b. If no graduates of the program completed the state-approved written and manual skills exam in the previous approval period, an explanation why Board approval is necessary for public protection, and a comprehensive plan to assist students to apply for testing and certification; or
    - c. If the program did not graduate any students in the previous approval period, a detailed plan including dates, marketing tools, and instructor name, which indicates that the program will be offered within the next six months.
  3. Upon receipt and review of a complete application packet the Board, through its authorized representative, shall evaluate the entity offering the program either in-person or by conference call. If a program is to be evaluated by means of a conference call, the Board shall issue a comprehensive request for information to the program for all of the following:
    4. A program that is evaluated by means of a conference call shall ensure that both the coordinator and all instructors are available to participate in the call.

## Board of Nursing

- a. A description of the classroom, supplies, and record-keeping;
  - b. A copy of the records of three students; and
  - c. A copy of the course schedule for each cohort group.
- 5. A Board representative shall evaluate each program and program site in-person at least once every four years. If a program or program site has received an in-person evaluation for the previous approval, no concerns are identified in the site-visit report, and there have been no complaints filed with the Board for two years following the approval, the program is eligible for a conference call evaluation.
- B. Following a conference call or onsite evaluation, the Board shall renew program approval for two years if a program complies with R4-19-801 and R4-19-802 and renewal is in the best interest of the public. If the program does not comply, the Board shall issue a notice of deficiency under R4-19-805.
- C. If the Board denies renewal of approval, a program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- D. A program that is denied renewal of approval shall not apply for reinstatement of approval for two years from the date of the denial.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-805. Deficiencies and Rescission of Program Approval, Voluntary Termination, Disciplinary Action, and Reinstatement**

- A. Deficiencies and rescission of approval
  - 1. Upon determining that a nursing assistant training program does not comply with this Article, the Board shall provide the program coordinator or an administrator who supervises the program with a written notice of deficiency. The Board shall establish a reasonable period of time, based upon the number and severity of deficiencies, for correction of the deficiencies. Under no circumstances, however, shall the period for correction of deficiencies exceed three months from the date of graduation of the next training class.
    - a. Within 10 days from the date that the notice of deficiency is served, the program shall file a plan of correction with the Board.
    - b. The Board may conduct periodic evaluations during the period of correction to ascertain progress in correcting the deficiencies.
    - c. The Board shall conduct at least one evaluation immediately following the period of correction to determine whether the program has corrected the deficiencies.
  - 2. The Board may rescind the approval of a nursing assistant training program or take other disciplinary action under A.R.S. § 32-1663 based on the number and severity of violations for any of the following reasons:
    - a. Failure to file a plan of correction with the Board within 10 days of service of a notice of deficiency.
    - b. Failure to comply with R4-19-801 or R4-19-802 within the period set by the Board in the notice of deficiency;
    - c. Noncompliance with federal, state, or if applicable, private postsecondary requirements;

- d. Failure to permit a scheduled or unannounced onsite evaluation, authorized by subsection R4-19-801(E);
  - e. Loaning or transferring program approval to another entity or facility, including a facility with the same ownership;
  - f. Conducting a nursing assistant training program before approval is granted;
  - g. Conducting a nursing assistant training program after expiration of approval without filing an application for renewal of approval before the expiration date; or
  - h. If the program is conducted by a long-term care facility, charging for any portion of the program.
- 3. If the Board rescinds approval of a nursing assistant training program, the program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10, and 4 A.A.C. 19, Article 6.
- 4. If the Board rescinds approval of a nursing assistant training program, the program shall not seek reinstatement for two years from the date of the rescission.
- B. Voluntary termination
  - 1. If a nursing assistant training program is being voluntarily terminated, the program coordinator or an administrator who supervises the program shall submit notice of termination to the Board.
  - 2. The program coordinator shall maintain the nursing assistant training program, including the instructors, until the last student is transferred or has completed the nursing assistant training program.

- C. Reinstatement
  - 1. If the Board rescinds approval of a nursing assistant training program, the program may apply for reinstatement after a period of two years by complying with the requirements of this Article.
  - 2. The applicant shall submit a complete application packet in writing that contains all of the information and documentation required by R4-19-803(B). The applicant shall provide substantial evidence that the basis for rescission no longer exists and that reinstatement of the program is in the best interest of the public.
  - 3. Unless the basis for rescission still exists, the Board shall reinstate a nursing assistant training program that otherwise meets the requirements of this Article. A program that is denied reinstatement may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying reinstatement. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-806. Nursing Assistant Certification by Examination**

- A. An applicant for certification by examination shall submit the following information and documentation to the Board:
  - 1. An application that contains all of the following information:
    - a. Full legal name;
    - b. Current address, including county of residence, and telephone number;
    - c. Date of birth;
    - d. Social Security number;

- e. Educational background, including the name of the training program attended, and date of graduation;
  - f. Current employer, including address and telephone number, type of position, and dates of employment;
  - g. A list of all states in which the applicant is or has been registered as a nursing assistant and the certificate number, if any;
  - h. Responses to questions that address each of the following subjects:
    - i. Any pending disciplinary action by a nursing regulatory agency or nursing assistant regulatory agency in the United States or its territories or current investigation regarding the applicant's nursing license, nursing assistant license, or nursing assistant certificate in another state or territory of the United States;
    - ii. Felony conviction or conviction of an undesignated or other similar offense and the date of absolute discharge of sentence; and
    - iii. Unprofessional conduct as defined in A.R.S. § 32-1601;
    - iv. A written or electronic signature by the applicant on a statement attesting to the truthfulness of the information provided by the applicant.
2. Proof of satisfactory completion of a nursing assistant training program that meets the requirements in subsection (B);
3. One or more fingerprint cards, if required by A.R.S. § 32-1606; and
4. Applicable fees.
- B.** An applicant for certification as a nursing assistant shall submit a passing score on a Board-approved nursing assistant examination and provide one of the following criteria:
- 1. Proof that the applicant has completed a Board-approved nursing assistant training program;
  - 2. Proof that the applicant has completed a nursing assistant training program approved in another state or territory of the United States consisting of at least 120 hours;
  - 3. Proof that the applicant has completed a nursing assistant program approved in another state or territory of the United States of at least 75 hours of instruction and proof of working as a nursing assistant for an additional number of hours that together with the hours of instruction, equal at least 120 hours; or
  - 4. Proof that the applicant either holds a valid nursing license in the U.S. or territories, has graduated from an approved nursing program, or otherwise meets educational requirements for a registered or practical nursing license in Arizona.
- C.** An applicant who fails either the written or manual skills portion of the nursing assistant examination may retake the failed portion of the examination until a passing score is achieved. An applicant shall pass both portions of the nursing assistant examination within two years from the date of completion of the nursing assistant training program or meet the requirements in subsection (D).
- D.** An applicant who does not pass an examination within the time period specified in subsection (C) shall repeat and complete a training program before being permitted to retake an examination.
- E.** An applicant who has never taken the examination and provides proof of at least 160 hours of employment as a nursing assistant for every two-year period since completing a state-approved nursing assistant training program meets federal requirements to take the written and manual skills nursing assistant examination.
- F.** The Board shall certify an applicant who meets the applicable criteria in this Article if certification is in the best interest of the public.
- G.** An applicant who is denied nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

#### R4-19-807. Nursing Assistant Certification by Endorsement

- A.** An applicant for nursing assistant certification by endorsement shall submit all of the information, documentation, and fees required in R4-19-806.
- B.** An applicant whose current employment is less than one year shall list all employers during the past two years.
- C.** An applicant for nursing assistant certification by endorsement shall meet the training program criteria in R4-19-806(B).
- D.** In addition to the other requirements of this Section, an applicant for certification by endorsement shall provide evidence that the applicant:
- 1. Is listed as active on a nursing assistant register or a substantially equivalent register by another state or territory of the United States; and
  - 2. Meets one or more of the following criteria:
    - a. Currently is working in nursing, performing nursing assistant activities, whether the job description or job title includes the term certified nursing assistant;
    - b. Has worked in nursing, performing nursing assistant activities, whether the job description or job title included the term "certified nursing assistant" for at least 160 hours within the past two years; or
    - c. Has completed a nursing assistant training program and passed the required examination within the past two years.
- E.** The Board shall certify an applicant who meets the applicable criteria in this Article if certification is in the best interest of the public.
- F.** An applicant who is denied nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

#### R4-19-808. Temporary Certificate

- A.** Subject to subsection (B), the Board may issue a temporary nursing assistant certificate to an applicant who desires to work as a certified nursing assistant based on receipt or consideration of the following:
- 1. A report from the Arizona Department of Public Safety, verifying that the Department has no criminal history record information, as that term is defined in A.R.S. § 41-1701, regarding the applicant; and
  - 2. An application for temporary nursing assistant certificate, furnished by the Board and completed by the applicant;

## Board of Nursing

3. The fee required under A.R.S. § 32-1643(A)(9); and
4. Evidence that the applicant is qualified for:
  - a. Certification by endorsement under A.R.S. § 32-1648 and R4-19-807, through submission of documentation or an official statement from another state or territory of the United States, verifying that the applicant has a current certificate or an equivalent document from that state or territory; or
  - b. Certification by examination under A.R.S. § 32-1645 and R4-19-806.
- B.** An applicant who discloses a disciplinary charge, substantiated complaint, criminal conviction, substance abuse, pending disciplinary charge, or a substantiated complaint by a regulatory agency, is not eligible for a temporary certificate without prior Board approval.
- C.** Unless extended for good cause under subsection (D), a temporary certificate is valid for three months.
- D.** A temporary certificate holder may apply and the Board or the Executive Director may grant an extension for good cause. Good cause means reasons beyond the control of the temporary certificate holder, such as unanticipated delays in obtaining information required for nursing assistant certification.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 5004, effective November 15, 2002 (Supp. 02-4). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-809. Certified Nursing Assistant Certificate Renewal**

- A.** A certified nursing assistant may apply for renewal of a certificate by submitting an application to the Board on or before the expiration date of the certificate.
  1. The application packet shall include all of the following:
    - a. Full legal name;
    - b. Current address, including county of residence, and telephone number;
    - c. Date of birth;
    - d. Current employer;
    - e. If the applicant has not been employed as a nursing assistant, or performed nursing assistant activities, whether the job description or the job title included the term certified nursing assistant, as specified in subsection (A)(2), documentation that the applicant has completed a Board-approved nursing assistant training program and passed both the written and manual skills portions of the competency examination within the past two years;
    - f. Responses to questions that address the following subjects:
      - i. Pending disciplinary action by a nursing regulatory agency or nursing assistant regulatory agency in the United States or its territories or current investigation of the applicant's nursing license, nursing assistant license, or nursing assistant certificate in another state or territory of the United States,
      - ii. Felony conviction or conviction of undesignated offense and date of absolute discharge of sentence since certified or last renewed, and
      - iii. Unprofessional conduct as defined in A.R.S. § 32-1601;
    - g. A written or electronic signature by the applicant on a statement attesting to the truthfulness of the information provided.

2. Documentation of proof of employment, such as a pay stub, W-2 form, or letter from an employer that verifies the applicant's employment as a nursing assistant or the applicant's performance of nursing assistant activities for a minimum of 160 hours within the past two years, and
3. Applicable fees.
- B.** The certificate of a nursing assistant who fails to renew expires on the last day of the month of a certificate holder's birthdate.
  1. A nursing assistant's responsibility to renew is not relieved by the nursing assistant's failure to obtain an application.
  2. A nursing assistant who fails to renew shall not work as a certified nursing assistant.
  3. Based on consideration of a nursing assistant's record regarding timely renewal, the Board may impose a late fee on a nursing assistant who fails to renew certification in a timely manner.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-810. Certified Nursing Assistant Register**

- A.** The Executive Director shall include the following information in the Register for each individual who receives Board certification:
  1. Full legal name and any other names used;
  2. Address of record;
  3. County of residence;
  4. The date of initial placement on the register;
  5. Dates and results of both the written and manual skills portions of the nursing assistant competency examination;
  6. Date of expiration of current certificate, if applicable;
  7. Existence of pending investigation, if applicable; and
  8. Status of certificate, such as active, denied, expired, or revoked, as applicable.
- B.** The Executive Director shall include the following information in the Register for an individual if the Board, or the United States Department of Health and Human Services (HHS), or the Arizona Department of Health Services finds that the individual has violated relevant law:
  1. For a finding by the Board or HHS, the Executive Director shall include:
    - a. The finding, including the date of the decision, and a reference to each statute, rule, or regulation violated; and
    - b. The sanction, if any, including the date of action and the duration of action, if time-limited.
  2. For a finding by the Arizona Department of Health Services, the Executive Director shall include:
    - a. The allegation;
    - b. Documentation of the investigation, including:
      - i. Nature of allegation, and
      - ii. Evidence supporting the finding;
    - c. Date of hearing, if any, or the date that the complaint was substantiated;
    - d. Statement disputing the allegation, if any;
    - e. The finding, including the date of the decision and a reference to each statute or rule violated; and
    - f. The sanction, including the dates of action and the duration of the sanction, if time-limited.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended

by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-811. Application for Duplicate Certificate**

- A. A certified nursing assistant shall report a lost or stolen certificate to the Board within 30 days of discovery of the loss.
- B. A certified nursing assistant shall make a written request for a duplicate certificate to the Board, provide a notarized signature or proof of identification, and pay the applicable fee.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1).

**R4-19-812. Change of Name or Address**

- A. An applicant or a certified nursing assistant, who legally changes names, shall notify the Board in writing within 30 days of any name change. The applicant or certified nursing assistant shall submit a copy of any official document evidencing the name change.
- B. An applicant or a certified nursing assistant shall notify the Board in writing within 30 days of any address change.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-813. Performance of Nursing Assistant Tasks**

- A. A certified nursing assistant may perform the following:
  - 1. Tasks for which the nursing assistant has been trained through the curriculum identified in R4-19-802, and
  - 2. Tasks learned through inservice or educational training if the task meets the following criteria and the nursing assistant has demonstrated competence performing the task:
    - a. The task can be safely performed according to clear, exact, and unchanging directions;
    - b. The task poses minimal risk to the patient or resident and the consequences of performing the task improperly are not life-threatening or irreversible;
    - c. The results of the task are reasonably predictable; and
    - d. Assessment, interpretation, or decision-making is not required during the performance or at the completion of the task.
- B. A nursing assistant may not perform any task that requires a judgment based on nursing knowledge, such as the administration of medications.
- C. A nursing assistant shall:
  - 1. Recognize the limits of the nursing assistant's personal knowledge, skills, and abilities;
  - 2. Comply with laws relevant to nursing assistant practice;
  - 3. Inform the registered nurse, licensed practical nurse, or another person authorized to delegate the task about the nursing assistant's ability to perform the task before accepting the assignment;
  - 4. Accept delegation, instruction, and supervision from a professional or practical nurse or another person authorized to delegate a task;
  - 5. Acknowledge responsibility for personal actions necessary to complete an accepted assigned task;
  - 6. Follow the plan of care, if available;
  - 7. Observe, report, and record signs, symptoms, and changes in the patient or resident's condition in an ongoing and timely manner; and
  - 8. Retain responsibility for the assigned task without delegating it to another person.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4).

**R4-19-814. Standards of Conduct for Certified Nursing Assistants**

For purposes of A.R.S. § 32-1601(22)(d), a practice or conduct that is or might be harmful or dangerous to the health of a patient or the public and constitutes a basis for disciplinary action on a certificate includes the following:

1. Failing to maintain professional boundaries or engaging in a dual relationship with a patient, resident, or any member of the patient's or resident's family;
2. Engaging in sexual conduct with a patient, resident, or any member of the patient's or resident's family who does not have a pre-existing relationship with the nursing assistant, or any conduct in the work place that a reasonable person would interpret as sexual;
3. Leaving an assignment or abandoning a patient or resident who requires care without properly notifying the immediate supervisor;
4. Failing to accurately document care and treatment provided to a patient or resident;
5. Falsifying or making a materially incorrect entry in a health care record;
6. Failing to follow an employer's policies and procedures, designed to safeguard the patient or resident;
7. Failing to take action to protect a patient or resident whose safety or welfare is at risk from potential or actual incompetent health care practice, or to report the practice to the immediate supervisor or a facility administrator;
8. Failing to report signs, symptoms, and changes in patient or resident conditions to the immediate supervisor in an ongoing and timely manner;
9. Violating the rights or dignity of a patient or resident;
10. Violating a patient or resident's right of privacy by disclosing confidential information or knowledge concerning the patient or resident, unless disclosure is otherwise required by law;
11. Neglecting or abusing a patient or resident physically, verbally, emotionally, or financially;
12. Soliciting, or borrowing, property or money from a patient or resident, or any member of the patient's or resident's family;
13. Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, resident, employer, co-worker, or member of the public.
14. Repeated use or being under the influence of alcohol, medication, or any other substance to the extent that judgment may be impaired and practice detrimentally affected or while on duty in any work setting;
15. Accepting patient or resident care tasks that the nursing assistant lacks the education or competence to perform;
16. Removing, without authorization, narcotics, drugs, supplies, equipment, or medical records from any work setting;
17. Obtaining, possessing, using, or selling any narcotic, controlled substance, or illegal drug in violation of any employer policy or any federal or state law;
18. Permitting or assisting another person to use the nursing assistant's certificate or identity for any purpose;
19. Making untruthful or misleading statements in advertisements of the individual's practice as a certified nursing assistant;

## Board of Nursing

20. Offering or providing certified nursing assistant services for compensation without a designated registered nurse supervisor;
21. Threatening, harassing, or exploiting an individual;
22. Using violent or abusive behavior in any work setting;
23. Failing to cooperate with the Board during an investigation by:
  - a. Not furnishing in writing a complete explanation of a matter reported under A.R.S. § 32-1664;
  - b. Not responding to a subpoena issued by the Board;
  - c. Not completing and returning a Board-issued questionnaire within 30 days; or
  - d. Not informing the Board of a change of address or phone number within 10 days of each change;
24. Engaging in fraud or deceit regarding the certification exam or an initial or renewal application for certification;
25. Making a written false or inaccurate statement to the Board or the Board's designee during the course of an investigation;
26. Making a false or misleading statement on a nursing assistant or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
27. If an applicant or certified nursing assistant is charged with a felony or a misdemeanor, involving conduct that may affect patient safety, failing to notify the Board, in writing, within 10 days of being charged under A.R.S. § 32-3208. The applicant or certified nursing assistant shall include the following in the notification:
  - a. Name, current address, telephone number, Social Security number, and license number, if applicable;
  - b. Date of the charge; and
  - c. Nature of the offense;
28. Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nursing assistant or applicant shall include the following in the notification:
  - a. Name, current address, telephone number, Social Security number, and license number, if applicable;
  - b. Date of the conviction;
  - c. Nature of the offense; and
29. Practicing in any other manner that gives the Board reasonable cause to believe that the health of a patient, resident, or the public may be harmed.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4254, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at

14 A.A.R. 4621, effective January 31, 2009 (Supp. 08-4). Antiquated statute reference in opening subsection revised at the request of Board under A.R.S. § 41-1011(C), Office File No. M11-189, filed May 16, 2011 (Supp. 11-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2012, Ch. 152, § 1, provides for A.R.S. references to be corrected to reflect the renumbering of definitions. Therefore the A.R.S. citation in the opening subsection was updated. Agency request filed July 12, 2012, Office File No. M12-242 (Supp. 12-3).

**R4-19-815. Reinstatement or Issuance of a Nursing Assistant Certificate**

An applicant whose application is denied or a nursing assistant whose certificate is revoked in accordance with A.R.S. § 32-1663, may reapply to the Board after a period of five years from the date the certificate or application is revoked or denied. A nursing assistant who voluntarily surrenders a nursing assistant certificate may reapply to the Board after no less than three years from the date the certificate is surrendered. The Board shall issue or reinstate a nursing assistant certificate under the following terms and conditions:

1. An applicant shall submit documentation showing that the basis for denial, revocation or voluntary surrender has been removed and that the issuance or reinstatement of nursing assistant certification will no longer constitute a threat to the public health or safety. The Board may require an applicant to be tested for competency, or retake and successfully complete a Board approved training program and pass the required examination.
2. The Board shall consider the application and may designate a time for the applicant to address the Board at a regularly scheduled meeting.
3. After considering the application, the Board may:
  - a. Grant nursing assistant certification, or
  - b. Deny the application.
4. An applicant who is denied issuance or reinstatement of nursing assistant certification may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying issuance or reinstatement of nursing assistant certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 757, effective February 4, 2000 (Supp. 00-1).

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

Authority: A.R.S. § 32-1801 et seq.

## ARTICLE 1. GENERAL PROVISIONS

*New Article 1 consisting of Sections R4-22-101, R4-22-103, and R4-22-104 adopted and former rules R4-22-05 and R4-22-06 amended and renumbered as Sections R4-22-105 and R4-22-106 effective June 29, 1987.*

*Former Article 1 consisting of Sections R4-22-01, R4-22-02, R4-22-04 thru R4-22-07, R4-22-09, R4-22-10, and R4-22-12 repealed and Sections R4-22-08 and R4-22-11 amended and renumbered as R4-22-05 and R4-22-06 effective June 29, 1987.*

Section	
R4-22-101.	Definitions
R4-22-102.	Specialist Designation
R4-22-103.	Approved Internships and Residencies
R4-22-104.	Examination and Issuance of Licenses; Lapse of Application
R4-22-105.	Repealed
R4-22-106.	Rehearing or Review of Decision
R4-22-107.	Labeling, Recordkeeping, Storage, and Packaging of Drugs
R4-22-108.	Fees and Charges
R4-22-109.	Renumbered
R4-22-110.	Approval of Educational Programs for Medical Assistants
R4-22-111.	Medical Assistants – Authorized Procedures
R4-22-112.	Medical Assistant Training Requirement
R4-22-113.	Repealed
R4-22-114.	Repealed
R4-22-115.	Petitions for Rulemaking

## ARTICLE 2. LICENSING AND TIME-FRAMES

R4-22-201.	Reserved
R4-22-202.	Reserved
R4-22-203.	Reserved
R4-22-204.	Reserved
R4-22-205.	Reserved
R4-22-206.	Reserved
R4-22-207.	Continuing Medical Education; Waiver; Extension of Time to Complete
R4-22-208.	Reserved
R4-22-209.	Reserved
R4-22-210.	Reserved
R4-22-211.	Reserved
R4-22-212.	Licensing Time-frames

## ARTICLE 1. GENERAL PROVISIONS

## R4-22-101. Definitions

In addition to the definitions in A.R.S. § 32-1800, in this Chapter:

“ACCME” means the Accreditation Council for Continuing Medical Education.

“AOA” means the American Osteopathic Association.

“CME” means continuing medical education.

“Continuing medical education” means a course, program, or other training that the Board approves for license renewal.

“Licensee” means an individual who holds a current license issued under A.R.S. Title 32, Chapter 17.

## Historical Note

Former Rule 1. Former Section R4-22-01 repealed, new Section R4-22-101 adopted effective June 29, 1987 (Supp. 87-2). Former Section R4-22-101 renumbered to

R4-22-109, new Section R4-22-101 adopted effective May 3, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 583, effective November 30, 2004 (Supp. 05-1). New Section made by final rulemaking at 12 A.A.R. 2765, effective September 9, 2006 (Supp. 06-3).

## R4-22-102. Specialist Designation

A specialty board approved by the Board includes only those specialty boards recognized by the American Osteopathic Association and listed in the *Yearbook and Directory of the American Osteopathic Association*, 1991, page 643, or the American Board of Medical Specialties and listed in the *Annual Report and Reference Handbook* of the American Board of Medical Specialties, June 1991, page 103, which are incorporated herein by reference and on file with the Office of the Secretary of State.

## Historical Note

Adopted effective January 24, 1984 (Supp. 84-1). Section R4-22-02 repealed effective June 29, 1987 (Supp. 87-2). New Section R4-22-102 adopted effective August 7, 1992 (Supp. 92-3).

## R4-22-103. Approved Internships and Residencies

For purposes of A.R.S. § 32-1822, the equivalent of an approved internship or approved residency is any of the following:

1. One or more years of a fellowship training program approved by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME);
2. A current certification by the AOA in an osteopathic medical specialty; or
3. For those who were awarded a Doctor of Osteopathy degree in 1946 or earlier, a minimum of 10 years of continuous active practice of osteopathic medicine and surgery immediately before applying for licensure.

## Historical Note

Former Section R4-22-04 repealed, new Section R4-22-103 adopted effective June 29, 1987 (Supp. 87-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

## R4-22-104. Examination and Issuance of Licenses; Lapse of Application

- A. Examination. Pursuant to A.R.S. § 32-1822(4), an applicant for licensure by examination must pass either the federal licensing examination (FLEX) with a grade of 75 or above in both components or the examination by the National Board of Osteopathic Examiners (NBOE) with a weighted average of 75% as determined by the NBOE.
- B. Waiver of examination. An applicant for licensure who is currently licensed to practice as an osteopathic physician and surgeon as specified in A.R.S. § 32-1822(4) need not take the examination referred to in subsection (A) if:
1. The applicant has taken the FLEX or NBOE examination within the seven-year period preceding the date of application and passed with the grade level specified in subsection (A); or
  2. The applicant has been continuously engaged in osteopathic practice and training since initial licensure. In determining whether an applicant has been continuously engaged in osteopathic practice and training, the Board



will consider the following:

- a. Total length of time the individual has been in the practice of medicine.
  - b. Percentage of time the individual devoted to the practice of medicine while not in full time practice.
  - c. Type and amount of continuing medical education or professional training the individual obtained while not in full time practice.
- C. Personal interviews.** The purpose of the personal interview required by A.R.S. § 32-1822(6) is to investigate the applicant's professional and personal background, to review the applicant's medical knowledge, to determine the applicant's ability to practice medicine in Arizona, and to clarify, explain, or amplify information obtained during the application process.
1. The personal interview may include questions relating to any or all of the following areas:
    - a. Substantive medical knowledge.
    - b. Arizona practice issues or problems.
    - c. Education qualifications.
    - d. Professional experience.
    - e. Applicant's moral character and fitness to practice medicine and surgery in Arizona.
  2. An applicant must correctly answer 75% of the medical knowledge questions to be considered acceptable for licensure.
  3. Any adverse information obtained by the Board during the personal interview may be grounds for further investigation or denial of licensure.
- D. Time limitations.** Each applicant for Arizona Osteopathic licensure must pass the written examination if required, and appear before the Board for the personal interview within one year from the date the application is filed. Failure to do so shall cause the application to lapse. Within six months from the date of successful completion of the personal interview, each applicant for Arizona Osteopathic licensure must complete all requirements for issuance of the license including payment of all fees and completion of an internship. Failure to do so shall cause the application to lapse.

#### Historical Note

Former Rule 4. Amended effective May 2, 1978 (Supp. 78-3). Former Section R4-22-05 repealed, new Section R4-22-104 adopted effective June 29, 1987 (Supp. 87-2).

#### R4-22-105. Repealed

#### Historical Note

Former Rule 8. Amended by adding subsection (D) effective January 24, 1984 (Supp. 84-1). Former Section R4-22-08 amended and renumbered as Section R4-22-105 effective June 29, 1987 (Supp. 87-2). Section repealed by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-106. Rehearing or Review of Decision

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and rules established by the Office of Administrative Hearings.
- B.** A party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a

fair hearing;

2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  7. That the Board's decision is a result of passion or prejudice; or
  8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G.** Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:
1. A ruling on the motion will further administrative convenience, expedition, or economy; or
  2. A ruling on the motion will avoid undue prejudice to any party.

#### Historical Note

Adopted effective May 8, 1978 (Supp. 78-3). Former Section R4-22-11 amended and renumbered as Section R4-22-106 effective June 29, 1987 (Supp. 87-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-107. Labeling, Recordkeeping, Storage, and Packaging of Drugs

- A.** Labeling. The following information shall be included on labels of medications being dispensed by licensed osteopathic physicians:
1. Serial number and date dispensed.
  2. Name of the patient for whom drug was issued.
  3. Name, strength and quantity of drug dispensed.
  4. Directions for use and cautionary statement if any is contained in the prescription order for the drug.
  5. Name of drug and manufacturer or distributor in case of generic substitution.
  6. Name, address and telephone number of the dispensing physician.
  7. In the case of controlled substances, the cautionary state-

## Board of Osteopathic Examiners in Medicine and Surgery

ment "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

- B.** Required information. A prescription order shall contain the following information:
1. Date of issuance.
  2. Name and address of the patient for which the prescription order has been issued.
  3. Name, strength and quantity of the drug prescribed and dispensed.
  4. Name and address of the physician dispensing the medication.
  5. Drug Enforcement Agency number of the physician dispensing for controlled substances.
- C.** Prescription recordkeeping. Prescription orders for drugs dispensed by licensed osteopathic physicians shall be:
1. Sequentially numbered and dated on date of dispensing.
  2. Filed separately from the patient records.
  3. Filed separately for Class II controlled substances.
  4. Filed separately or marked with a prominent red "C" for Class III, IV, & V controlled substances.
  5. Listed in a log showing the name of patient, name of drug, number dispensed, and date of dispensation.
- D.** Records, receipts, refilling prescriptions.
1. A record of refills shall be kept on the back of the prescription showing the date, name or initials of dispensing physician and quantity dispensed if that varies from the original amount ordered.
  2. Resale of medication to another licensed physician shall not exceed 5% of the seller's total annual sales of medications. A record of the sale shall be kept for a period of three years.
  3. Invoices of receipts and records of disbursement shall be maintained for all controlled substances for a period of three years.
  4. Annual inventories of all controlled substances shall be performed and available for review by Drug Enforcement Agency and other drug control agencies.
  5. Schedule II controlled substances prescription orders shall not be refilled.
  6. Schedule III, IV and V controlled substances prescription orders may be refilled a maximum of five times within six months from date of prescription order.
- E.** Storage.
1. All medications shall be stored in a locked cabinet or room, with restricted access to the drug storage area.
  2. Storage rooms should not exceed a high temperature of 85° Fahrenheit.
  3. All medications shall be in current or unexpired dating or returned to source of supply.
- F.** Packaging. A medication dispensed by the physician shall be in light-resistant container with a consumer safety cap (i.e., a container cap that does not screw directly on or off the container) unless the patient and physician agree otherwise and shall be labeled by a mechanically printed label.

**Historical Note**

Adopted effective August 7, 1992 (Supp. 92-3).

**R4-22-108. Fees and Charges**

- A.** Under the specific authority provided by A.R.S. §§ 32-1826(A) and 32-1871(A)(5), the Board establishes and shall collect the following fees for the Board's licensing activities:
1. Application to practice osteopathic medicine, \$400;
  2. Issuance of initial license, \$180 (pro-rated);
  3. Biennial renewal of license, \$636 plus the penalty and reimbursement fees specified in A.R.S. § 32-1826(B), if

- applicable;
4. Locum tenens registration, \$300;
  5. Annual registration for internship, residency, or clinical fellowship, \$50;
  6. Teaching license, \$318;
  7. Five-day educational teaching permit, \$106; and
  8. Annual registration to dispense drugs and devices, \$240 (initial registration fee is pro-rated).
- B.** Under the specific authority provided by A.R.S. § 32-1826(C), the Board establishes and shall collect the following charges for services provided by the Board:
1. Verification of a license to practice osteopathic medicine issued by the Board and copy of licensee's complaint history, \$5.00;
  2. Issuance of a duplicate license, \$10;
  3. List of physicians licensed by the Board, \$25.00 if for non-commercial use or \$100 if for commercial use;
  4. Copying records, documents, letters, minutes, applications, and files, 25¢ per page;
  5. Copy of an audio tape, \$35.00; and
  6. Digital medium not requiring programming, \$100.
- C.** Except as provided under A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

**Historical Note**

Adopted effective August 7, 1992 (Supp. 92-3).  
Amended by final rulemaking at 18 A.A.R. 2488, effective November 10, 2012 (Supp. 12-3).

**R4-22-109. Renumbered****Historical Note**

Former Rule 1. Former Section R4-22-01 repealed, new Section R4-22-101 adopted effective June 29, 1987 (Supp. 87-2). Renumbered from R4-22-101 effective May 3, 1993 (Supp. 93-2). Former R4-22-109 renumbered to R4-22-207 by final rulemaking at 12 A.A.R. 2765, effective September 9, 2006 (Supp. 06-3).

**R4-22-110. Approval of Educational Programs for Medical Assistants**

- A.** For purposes of this Section, a Board-approved medical assistant training program is a program:
1. Accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP);
  2. Accredited by the Accrediting Bureau of Health Education Schools (ABHES);
  3. Accredited by any accrediting agency recognized by the United States Department of Education; or
  4. Designed and offered by a licensed osteopathic physician, meets or exceeds the standards of one of the accrediting programs listed in subsections (A)(1) through (A)(3), and verifies that those who complete the program have the entry level competencies referenced in R4-22-111.
- B.** A person seeking approval of a training program for medical assistants shall submit verification to the Board that the program meets the requirements in subsection (A).

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

**R4-22-111. Medical Assistants – Authorized Procedures**

A medical assistant may, under the direct supervision of an osteopathic physician or a physician assistant, perform the medical procedures listed in the Commission on Accreditation of Allied Health Education Programs' *Standards and Guidelines for Medical Assisting Educational Programs, revised 2003*, Section III(C)(3)(a)

through (c). This material is incorporated by reference, does not include any later revisions, amendments or editions, is on file with the Board, and may be obtained at [www.caahep.org](http://www.caahep.org). Additionally, a medical assistant working under the direct supervision of an osteopathic physician or physician assistant may:

1. Perform physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvanic stimulation treatments, ultrasound therapy, massage therapy, and traction treatments;
2. Apply Transcutaneous Nerve Stimulation units and hot and cold packs; and
3. Administer small volume nebulizers.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-112. Medical Assistant Training Requirement

- A.** The supervising physician or physician assistant shall ensure that a medical assistant satisfies one of the following training requirements before the medical assistant is employed:
1. Completes an approved medical assistant training program,
  2. Completes an unapproved medical assistant training program and passes a medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists, or
  3. Completes a medical services training program of the Armed Forces of the United States.
- B.** This Section does not apply to a person who completed a medical assistant training program before the effective date of this Section and was employed continuously as a medical assistant since completing the program.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-113. Repealed

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-114. Repealed

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2).

#### R4-22-115. Petitions for Rulemaking

Petitions to the Board pursuant to A.R.S. § 41-1033 shall be made in writing by delivering or mailing to the Board a letter requesting the adoption of the rule. The letter shall state the purpose for the proposed rule, the name and address of the person requesting the adoption of the rule, and be signed by that person.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

### ARTICLE 2. LICENSING AND TIME-FRAMES

**R4-22-201. Reserved**

**R4-22-202. Reserved**

**R4-22-203. Reserved**

**R4-22-204. Reserved**

**R4-22-205. Reserved**

**R4-22-206. Reserved**

#### R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

- A.** Under A.R.S. § 32-1825(B), a licensee is required to obtain 20 hours of Board-approved CME in each of the two years preceding license renewal. The Board shall approve the CME of a licensee if the CME complies with the following:
1. At least 12 hours are obtained annually by completing a CME classified by the AOA as Category 1A; and
  2. No more than eight hours are obtained annually by completing a CME classified by the ACCME as Category 1.
- B.** During the first year that a licensee is licensed, the licensee may fulfill 20 hours of the CME requirement by participating in an approved residency, internship, fellowship, or preceptorship.
- C.** The Board shall accept the following documentation as evidence of compliance with the CME requirement:
1. For a CME under subsection (A)(1):
    - a. The AOA printout of the licensee's CME; or
    - b. A copy of the certificate of attendance from the provider of the CME showing:
      - i. Licensee's name,
      - ii. Title of the CME,
      - iii. Name of the provider of the CME,
      - iv. Category of the CME,
      - v. Number of hours in the CME, and
      - vi. Date of attendance;
  2. For a CME under subsection (A)(2), a copy of the certificate of attendance from the provider of the CME showing the information listed in subsection (C)(1)(b); and
  3. For a CME under subsection (B), either a letter from the Director of Medical Education or a certificate of completion for the approved internship, residency, fellowship, or preceptorship.
- D.** Waiver of CME requirements. To obtain a waiver under A.R.S. § 32-1825(C) of the CME requirements, a licensee shall submit to the Board a written request that includes the following:
1. The period for which the waiver is requested,
  2. CME completed during the current license period and the documentation required under subsection (C), and
  3. Reason that a waiver is needed and the applicable documentation:
    - a. For military service. A copy of current orders or a letter on official letterhead from the licensee's commanding officer;
    - b. For absence from the United States. A copy of pages from the licensee's passport showing exit and reentry dates;
    - c. For disability. A letter from the licensee's treating physician stating the nature of the disability; or
    - d. For circumstances beyond the licensee's control. A letter from the licensee stating the nature of the circumstances and any supporting documentation.
- E.** The Board shall grant a request for waiver of CME requirements that:
1. Is based on a reason listed in subsection (D)(3),
  2. Is supported by the required documentation,

## Board of Osteopathic Examiners in Medicine and Surgery

3. Is filed no sooner than 60 days before and no later than 30 days after the license renewal date, and
  4. Will promote the safe and professional practice of osteopathy in this state.
- F.** Extension of time to complete CME requirements. To obtain an extension of time under A.R.S. § 32-1825(C) to complete the CME requirements, a licensee shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension,
  2. CME completed during the current license period and the documentation required under subsection (C),
  3. Proof of registration for additional CME that is sufficient to enable the licensee to complete all CME required for license renewal before the end of the requested extension, and
  4. Licensee's attestation that the CME obtained under the extension will be reported only to fulfill the current license renewal requirement and will not be reported on a subsequent license renewal application.
- G.** The Board shall grant a request for an extension that:
1. Specifies an ending date no later than May 1,
  2. Includes the required documentation and attestation,
  3. Is submitted no sooner than 60 days before and no later than 30 days after the license renewal date, and
  4. Will promote the safe and professional practice of osteopathy in this state.
- Historical Note**
- Section R4-22-207 renumbered from R4-22-109 and amended by final rulemaking at 12 A.A.R. 2765, effective September 9, 2006 (Supp. 06-3).
- R4-22-208. Reserved**
- R4-22-209. Reserved**
- R4-22-210. Reserved**
- R4-22-211. Reserved**
- R4-22-212. Licensing Time-frames**
- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license issued by the Board is listed in Table 1. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frames by no more than 25 percent of the overall time-frame listed in Table 1.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license issued by the Board is listed in Table 1. The administrative completeness review time-frame for a particular license begins on the date the Board receives an application package for that license.
1. If the application package is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review and overall time-frames are suspended from the postmark date on the notice until the date the Board receives the missing document or incomplete information.
  2. If the application package is complete, the Board shall send to the applicant a written notice of administrative completeness.
  3. If the Board grants or denies a license during the administrative completeness review time-frame, the Board shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) for each type of license issued by the Board is listed in Table 1. The substantive review time-frame begins on the postmark date of the Board's notice of administrative completeness.
1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The substantive review and overall time-frames are suspended from the postmark date on the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
  2. The Board shall send a written notice of approval to an applicant who meets the requirements of A.R.S. Title 32, Chapter 17 and this Chapter.
  3. The Board shall send a written notice of denial to an applicant who fails to meet the requirements of A.R.S. Title 32, Chapter 17 or this Chapter.
- D.** The Board shall administratively close an applicant's file if the applicant fails to submit the information or documentation required under subsection (B)(1) or (C)(1) within 360 days from the date on which the application package was originally submitted. If an individual whose file is administratively closed wishes to be licensed, the individual shall file another application package and pay the application fee.
- E.** Under A.R.S. § 41-1073(E)(2), the Board is not establishing a time-frame for issuance of the following licenses because the Board shall grant or deny each license within seven days after receipt of an application:
1. Ninety-day extension of locum tenens registration under A.R.S. § 32-1823(C);
  2. Waiver of continuing education requirements for a particular period under A.R.S. § 32-1825(C);
  3. Extension of time to complete continuing education requirements under A.R.S. § 32-1825(C);
  4. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program under A.R.S. § 32-1826(A)(6);
  5. Five-day educational training permit under A.R.S. § 32-1828; and
  6. Extension of one-year renewable training permit under A.R.S. § 32-1829(B).
- F.** In computing any time-frame prescribed in this Section, the day of the act or event that begins the time-frame is not included. The computation includes intermediate Saturdays, Sundays, and official state holidays. If the last day of a time-frame falls on a Saturday, Sunday, or official state holiday, the next business day is the time-frame's last day.

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

Type of License	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
License	A.R.S. § 32-1822	120	30	90
License Renewal	A.R.S. § 32-1825	120	30	90

## Board of Osteopathic Examiners in Medicine and Surgery

90-day Locum Tenens Registration	A.R.S. § 32-1823	60	30	30
One-year Renewable Training Permit	A.R.S. § 32-1829(A)	60	30	30
Short-term Training Permit	A.R.S. § 32-1829(C)	60	30	30
One-year Training Permit at Approved School or Hospital	A.R.S. § 32-1830	60	30	30
Two-year Teaching License	A.R.S. § 32-1831	60	30	30
Registration to Dispense Drugs and Devices	A.R.S. § 32-1871	90	30	60
Renewal of Registration to Dispense Drugs and Devices	A.R.S. §§ 32-1826(A)(11) and 32-1871	60	30	30
Authorization to Read or Interpret Mammographic Images	A.R.S. § 32-2842	60	30	30
Renewal of Authorization to Read or Interpret Mammographic Images	A.R.S. § 32-2842	60	30	30
Approval of Educational Program for Medical Assistants	A.R.S. § 32-1800(19)	60	30	30

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1388, effective June 4, 2006 (Supp. 06-2).

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 24. BOARD OF PHYSICAL THERAPY**

Authority: A.R.S. § 32-2002 et seq.

**ARTICLE 1. GENERAL PROVISIONS**

*Article 1 consisting of Sections R4-24-101 through R4-24-109 adopted effective June 3, 1982 (Supp. 82-3).*

*Former Article 1 consisting of Sections R4-24-01 through R4-24-06 repealed effective June 3, 1982 (Supp. 82-3).*

## Section

R4-24-101.	Definitions
R4-24-102.	Expired
R4-24-103.	Board Officers
R4-24-104.	Confidential Information and Records
R4-24-105.	Expired
R4-24-106.	Repealed
R4-24-107.	Fees
R4-24-108.	Repealed
R4-24-109.	Renumbered

**ARTICLE 2. LICENSING PROVISIONS**

*Article 2 consisting of Sections R4-24-201 through R4-24-203 adopted effective June 3, 1982 (Supp. 82-3).*

*Former Article 2 consisting of Sections R4-24-16 through R4-24-26 repealed effective June 3, 1982 (Supp. 82-3).*

## Section

R4-24-201.	Application for a Physical Therapist License
R4-24-202.	Reinstatement of License or Certificate
R4-24-203.	Foreign-educated Applicant Requirements
R4-24-204.	Supervised Clinical Practice
R4-24-205.	Examination Scores
R4-24-206.	Renumbered
R4-24-207.	Application for a Physical Therapist Assistant Certificate
R4-24-208.	License or Certificate Renewal; Address Change
R4-24-209.	Time-frames for Board Approvals
Table 1.	Time-frames (in days)
R4-24-210.	Business Entity Registration; Display of Registration Certificate
R4-24-211.	Renewal of Business Entity Registration
R4-24-212.	Regulation of a Business Entity
R4-24-213.	Business Entity Participation
Exhibit 1.	Repealed

**ARTICLE 3. PRACTICE OF PHYSICAL THERAPY**

*Article 3 consisting of Sections R4-24-301 and R4-24-302 adopted effective April 10, 1986 (Supp. 86-2).*

*Former Article 3 consisting of Sections R4-24-301 through R4-24-303 repealed effective April 10, 1986 (Supp. 86-2).*

## Section

R4-24-301.	Lawful Practice
R4-24-302.	Use of Titles
R4-24-303.	Patient Care Management
R4-24-304.	Adequate Patient Records
R4-24-305.	Complaints and Investigations
R4-24-306.	Hearings
R4-24-307.	Subpoenas
R4-24-308.	Rehearing or Review of Board Decisions
R4-24-309.	Disciplinary Actions
R4-24-310.	Substance Abuse Recovery Program
R4-24-311.	Display of License; Disclosure
R4-24-312.	Mandatory Reporting Requirement

Appendix A. Repealed

Appendix B. Repealed

**ARTICLE 4. CONTINUING COMPETENCE**

*Article 4, consisting of Sections R4-24-401 through R4-24-403, adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).*

## Section

R4-24-401.	Continuing Competence Requirements for Renewal
R4-24-402.	Continuing Competence Activities
R4-24-403.	Activities Not Eligible for Continuing Competence Credit

**ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES**

*Article 5, consisting of Sections R4-24-501 through R4-24-506, adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).*

## Section

R4-24-501.	Expired
R4-24-502.	Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to a Section Based Upon Economic, Small Business or Consumer Impact
R4-24-503.	Expired
R4-24-504.	Expired
R4-24-505.	Expired
R4-24-506.	Written Criticism of Rule

**ARTICLE 1. GENERAL PROVISIONS****R4-24-101. Definitions**

In addition to the definitions in A.R.S. § 32-2001, in this Chapter:

1. "Accredited" means accredited by a nationally recognized accreditation organization.
2. "Accredited educational program" means a physical therapist or physical therapist assistant educational program that is accredited by:
  - a. The Commission on Accreditation of Physical Therapy Education, or
  - b. An agency recognized as qualified to accredit physical therapist or physical therapist assistant programs by either the U.S. Department of Education or the Council on Higher Education Accreditation at the time of the applicant's graduation.
3. "Administratively suspend," as used in A.R.S. § 32-2027, means the Board places a license or certificate issued under A.R.S. Title 32, Chapter 19 and this Chapter on suspended status because the license or certificate was not renewed timely.
4. "Applicant" means an individual or business entity seeking an initial or renewal license, initial or renewal certificate, initial or renewal registration, interim permit, or reinstatement from the Board.
5. "Applicant packet" means the forms and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
6. "Campus" means a facility and immediately adjacent buildings.
7. "College Board" means an association composed of schools, colleges, universities, and other educational

- organizations across the United States that is responsible for the development of assessment tests that are used to provide college credit or for college placement.
8. "College level examination program" means services offered by the College Board for an individual to demonstrate college-level achievement by taking an examination approved by the College Board.
  9. "Compliance period" means a two-year license renewal cycle that ends August 31 of even-numbered years.
  10. "Continuing competence" means maintaining the professional skill, knowledge, and ability of a physical therapist by successfully completing scholarly and professional activities related to physical therapy.
  11. "Course" means an organized subject matter in which instruction is offered within a specified period of time.
  12. "Course evaluation tool" means the Coursework Evaluation Tool for Foreign Educated Physical Therapists who Graduated after June 30, 2009, Fifth Edition, 2004 (effective July 1, 2009), published by the Federation of State Boards of Physical Therapy, 124 West Street, South Alexandria, VA, 22314, incorporated by reference and on file with the Board. This incorporation by reference contains no future editions or amendments.
  13. "Credential evaluation" means a written assessment of a foreign-educated applicant's general and professional educational course work.
  14. "Credential evaluation agency" means an organization that evaluates a foreign-educated applicant's education and provides recommendations to the Board about whether the applicant's education is substantially equivalent to physical therapy education provided in an accredited educational program.
  15. "Days" means calendar days.
  16. "Endorsement" means a procedure for granting an Arizona license to an applicant already licensed as a physical therapist in another jurisdiction of the United States.
  17. "ETS" means Educational Testing Service, an organization that provides educational learning and assessment services, including the Test of English as a Foreign Language Program.
  18. "Facility" means a building where:
    - a. A physical therapist is engaged in the practice of physical therapy;
    - b. An applicant, licensee, or certificate-holder is engaged in a supervised clinical practice; or
    - c. A physical therapist assistant performs physical therapy-related tasks delegated by an onsite supervisor.
  19. "Foreign-educated applicant" means an individual who graduated from a physical therapist educational program outside the United States, Puerto Rico, District of Columbia, or a U.S. territory.
  20. "Functional limitation" means restriction of the ability to perform a physical action, activity, or task in an efficient, typically expected or competent manner.
  21. "Good moral character" means the applicant has not taken any action that is grounds for disciplinary action against a licensee or certificate-holder under A.R.S. § 32-2044.
  22. "Hour" means 60 minutes.
  23. "iBT" means internet-based TOEFL.
  24. "National disciplinary database" means the disciplinary database of the U.S. Department of Health and Human Services' Health Integrity and Protection Data Base, which contains previous or current disciplinary actions taken against a licensed physical therapist or certified physical therapist assistant by state licensing agencies.
  25. "National examination" means an examination produced by the Federation of State Boards of Physical Therapy or an examination produced by the American Physical Therapy Association.
  26. "On call," as used in the definition of "general supervision" prescribed under A.R.S. § 32-2001, means a supervising physical therapist is able to go to the location at which and on the same day that a physical therapist assistant provides a selected treatment intervention if the physical therapist, after consultation with the physical therapist assistant, determines that going to the location is in the best interest of the patient.
  27. "Onsite supervisor" means a physical therapist who provides onsite supervision as defined in A.R.S. § 32-2001.
  28. "Physical Therapist Assistant Clinical Performance Instrument" means the document used to assess an individual's knowledge, skills, and attitudes to determine the individual's readiness to work as a physical therapist assistant that is published by the American Physical Therapy Association, Division of Education, March 1998, 1111 North Fairfax Street, Alexandria, VA 22314-1488 and incorporated by reference and on file with the Board. This incorporation by reference contains no future editions or amendments.
  29. "Physical Therapist Clinical Performance Instrument" means the document used to assess an individual's knowledge, skills, and attitudes to determine the individual's readiness to practice physical therapy that is published by the American Physical Therapy Association, Division of Education, December 1997, 1111 North Fairfax Street, Alexandria, VA 22314-1488 and incorporated by reference and on file with the Board. This incorporation by reference contains no future editions or amendments.
  30. "Physical therapy services" means any of the actions stated in the definition of practice of physical therapy in A.R.S. § 32-2001.
  31. "Qualified translator" means an individual, other than an applicant, who is:
    - a. An officer or employee of an official translation bureau or government agency,
    - b. A professor or instructor who teaches a translated language in an accredited college or university in the United States,
    - c. An American consul in the country where the translated document is issued or another individual designated by the American consul in the country where the translated document is issued, or
    - d. A consul general or diplomatic representative of the United States or individual designated by the consul general or diplomatic representative.
  32. "Readily available," as used in the definition of "general supervision" prescribed under A.R.S. § 32-2001, means a supervising physical therapist is able to respond within 15 minutes to a communication from a physical therapist assistant providing a selected treatment intervention under general supervision.
  33. "Recognized standards of ethics" means the *Code of Ethics* (amended June 2000) and the accompanying *Guide for Professional Conduct* (amended January 2004) of the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314-1488, which is incorporated by reference and on file with the Board.

## Board of Physical Therapy

This incorporation includes no later editions or amendments.

34. "Supervised clinical practice" means the period of time a physical therapist is engaged in the practice of physical therapy or a physical therapist assistant is engaged in work as a physical therapist assistant after being issued an interim permit by the Board.
35. "Supervising physical therapist" means an individual licensed under this Chapter who provides onsite or general supervision to assistive personnel.
36. "Suspend" means the Board places a license, certificate, permit, or registration in a status that restricts the holder of the license, certificate, permit, or registration from practicing as a physical therapist, working as a physical therapist assistant, or offering physical therapy services.
37. "TOEFL" means test of English as a foreign language.
38. "Week" means the period beginning on Sunday at 12:00 a.m. and ending the following Saturday at 11:59 p.m.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Amended effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 307, effective January 13, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 1640, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 1788, effective December 5, 2009 (Supp. 09-4). Amended by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-102. Expired****Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-102 repealed, former Section R4-24-103 renumbered and amended as Section R4-24-102 effective April 10, 1986 (Supp. 86-2). Former Section R4-24-102 renumbered to R4-24-103; new Section R4-24-102 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-103. Board Officers**

The Board shall elect a president, vice-president, and secretary at its first regular Board meeting each year.

1. The president shall preside at all Board meetings.
2. When the president is unable to preside at a Board meeting, the vice-president shall preside.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-103 renumbered and amended as Section R4-24-102, former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2). Former Section R4-24-103 renumbered to Section R4-24-204 effective May 7, 1990 (Supp. 90-2). New Section R4-24-103 renumbered from R4-24-102 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**R4-24-104. Confidential Information and Records**

The following information or a record containing this information is confidential and is not provided to the public by the Board:

1. An applicant's, licensee's, or certificate-holder's:
  - a. Social Security number;
  - b. Home address or home telephone number unless the address or telephone number is the only address or telephone number of record;
  - c. Credential evaluation report, education transcript, grades, or examination scores;
  - d. National physical therapist or physical therapist assistant examination score;
  - e. Diagnosis and treatment records; and
2. According to A.R.S. § 32-2045, information or a document related to investigations by the Board until the information or document becomes a public record or as required by law.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2). New Section R4-24-104 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**R4-24-105. Expired****Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (B) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-106. Repealed****Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (A) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**R4-24-107. Fees**

- A. Under the authority provided by A.R.S. §§ 32-2029 and 32-2030, the Board establishes and shall collect the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

1. For a physical therapist:
  - a. Application for an original license if the applicant applies on or after September 1 in an even-numbered year and no later than August 31 in an odd-numbered year, \$260;
  - b. Application for an original license if the applicant applies on or after September 1 in an odd-numbered year and no later than August 31 in an even-numbered year, \$190;
  - c. Renewal of an active license, \$160;
  - d. Renewal of an inactive license, \$80;
  - e. Reinstatement of an administratively suspended license, \$100 plus the renewal fee; and



- f. Duplicate license, \$10.
- 2. For a physical therapist assistant:
  - a. Application for an original certificate if the applicant applies on or after September 1 in an even-numbered year and no later than August 31 in an odd-numbered year, \$160;
  - b. Application for an original certificate if the applicant applies on or after September 1 in an odd-numbered year and no later than August 31 in an even-numbered year, \$120;
  - c. Renewal of an active certificate, \$55;
  - d. Renewal of an inactive certificate, \$27.50;
  - e. Reinstatement of an administratively suspended certificate, \$50 plus the renewal fee; and
  - f. Duplicate certificate, \$10.
- 3. For a business entity:
  - a. Application for an original registration, \$50;
  - b. Renewal, \$50;
  - c. Late fee, \$25; and
  - d. Duplicate registration, \$10.
- B. The Board shall accept fees paid by check or money order payable to the Arizona State Board of Physical Therapy.

#### Historical Note

Adopted effective June 3, 1982 (Supp. 82-3). Amended effective May 7, 1990 (Supp. 90-2). Section R4-24-107 renumbered to R4-24-306 by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section R4-24-107 renumbered from R4-24-206 by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

#### R4-24-108. Repealed

#### Historical Note

Adopted effective June 3, 1982 (Supp. 82-3). Repealed effective May 7, 1990 (Supp. 90-2).

#### R4-24-109. Renumbered

#### Historical Note

Adopted effective June 3, 1982 (Supp. 82-3). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Section R4-24-109 renumbered to R4-24-307 by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).

### ARTICLE 2. LICENSING PROVISIONS

#### R4-24-201. Application for a Physical Therapist License

- A. An applicant for a physical therapist license shall submit to the Board an application packet that includes:
  - 1. An application form provided by the Board that is signed and dated by the applicant and notarized and contains:
    - a. The applicant's name, business and residential addresses, telephone number, birth date, and Social Security number;
    - b. The name and address of each university or college attended by the applicant, the dates of attendance, and the date of graduation and degree received, if applicable;
    - c. The name and address of the university or college where the applicant completed an accredited educational program and dates of attendance;
  - d. A statement of whether the applicant has ever been licensed as a physical therapist in any other jurisdiction of the United States or foreign country;
  - e. Professional employment history for the past five years, including the name, address, and telephone number for each place of employment, job title, description of the work completed, and explanation of any breaks in employment, if applicable;
  - f. A statement of whether the applicant has ever been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
  - g. A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
  - h. A statement of whether the applicant is currently or ever has been under investigation, suspension, or restriction by a professional licensing board in any jurisdiction of the United States or foreign country for any act that occurred in that jurisdiction that would be the subject of discipline under this Chapter and if so, an explanation;
  - i. A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or postsecondary educational institution.
  - j. A statement of whether the applicant has committed any of the actions referenced in the definition of good moral character in R4-24-101;
  - k. A statement of whether the applicant has ever had a malpractice judgment, has a lawsuit currently pending for malpractice, or entered into a settlement from a malpractice suit and if so, an explanation;
  - l. A statement of whether the applicant is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
  - m. A statement of whether the applicant has any impairment to the applicant's cognitive, communicative, or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
  - n. A statement of whether the applicant has, within the past 10 years, used alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety and if so, an explanation;
  - o. A statement of whether the applicant has, within the past 10 years, been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety and if so, an explanation;
  - p. A statement of whether the applicant has ever violated A.R.S. § 32-2044(10);
  - q. A statement by the applicant attesting to the truthfulness of the information provided by the applicant.
- 2. A passport photograph of the applicant no larger than 1 1/2 x 2 inches that was taken not more than six months before the date of the application;

## Board of Physical Therapy

3. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.; and
  4. The fee required in R4-24-107.
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have submitted directly to the Board:
1. An official transcript or letter showing that the applicant completed all requirements of an accredited educational program that includes the official seal of the university or college where the applicant completed the accredited educational program and signature of the registrar of the university or college,
  2. Verification of passing a national examination in physical therapy as evidenced by an original notice of examination results, and
  3. Verification of passing a jurisprudence examination as evidenced by an original notice of examination results.
- C.** In addition to the requirements in subsections (A)(1) through (A)(3) and subsection (B), an applicant for a physical therapist license by endorsement shall submit to the Board:
1. The name of the licensing or certifying agency of any jurisdiction in which the applicant is currently or has been previously licensed;
  2. A verification of each license, signed and dated by an official of the agency licensing or certifying the applicant, that includes the official seal of the licensing or certifying agency and all of the following:
    - a. The name of the applicant;
    - b. The license number and date of issuance;
    - c. The current status of the license;
    - d. The expiration date of the license;
    - e. A statement of whether the applicant was ever denied a license by the agency and if so, an explanation; and
    - f. A statement of whether any disciplinary action is pending or has ever been taken against the applicant and if so, an explanation.
- D.** The Board shall deny a license to an applicant who fails to meet the requirements of this Section or A.R.S. Title 32, Chapter 19. An applicant denied a license may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (C) and added subsection (D) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008, (Supp. 08-3).

**R4-24-202. Reinstatement of License or Certificate**

- A.** An applicant whose Arizona license or certificate is administratively suspended for three consecutive years or less after the date of renewal of the license or certificate may apply for reinstatement of the license or certificate by submitting the application in R4-24-208 and the reinstatement fee and renewal fee required in R4-24-107.
- B.** An applicant whose Arizona license or certificate is administratively suspended for more than three consecutive years after the date of renewal of the license or certificate may apply for reinstatement of the license or certificate by submitting the reinstatement fee and renewal fee in R4-24-107, and:

1. For an applicant educated in the United States requesting reinstatement of a license, the application in R4-24-201(A) and (B);
  2. For a foreign-educated applicant requesting reinstatement of a license, the application in R4-24-203; or
  3. For an applicant requesting reinstatement of a certificate, the application in R4-24-207(A) and (B).
- C.** If an applicant submits an application according to subsection (B), the Board shall require the applicant to demonstrate competency by doing one or more of the following:
1. Practice physical therapy or work as a physical therapist assistant under an interim permit that allows the applicant to participate in a supervised clinical practice,
  2. Complete one or more courses relevant to the practice of physical therapy or the work of a physical therapist assistant,
  3. Complete continuing competence requirements for the period of time of the lapsed license, or
  4. Take and pass a jurisprudence examination or national examination.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (C) effective April 10, 1986 (Supp. 86-2). Amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Former Section R4-24-202 renumbered to R4-24-204; new Section R4-24-202 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Subsection (A) corrected at request of the Board, Office File No. M12-209, filed June 8, 2012 (Supp. 12-1). Amended by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-203. Foreign-educated Applicant Requirements**

- A.** A foreign-educated applicant shall meet the requirements in A.R.S. § 32-2022(B) and the following:
1. The applicant shall comply with the requirements in R4-24-201.
  2. The applicant shall ensure that a document required by R4-24-201 or this subsection is:
    - a. Submitted to the Board in English; or
    - b. Accompanied by an original English translation by a qualified translator if the document is submitted to the Board in a language other than English and includes an affidavit of accuracy by the qualified translator affirming:
      - i. The qualified translator has translated the entire document,
      - ii. The qualified translator has not omitted anything from or added to the translation, and
      - iii. The translation is true and accurate.
  3. To meet the requirements in A.R.S. § 32-2022(B)(4), the applicant shall state on the application form whether the applicant's practice as a physical therapist was limited in the country where the professional education occurred. If the applicant's practice was limited in the country where the professional education occurred, the applicant shall submit to the Board documentation of the limitation, or arrange to have documentation of limitation sent directly to the Board, that includes:
    - a. The name, address, and telephone number of the entity that limited the applicant's practice of physical therapy;

- b. A description of the action or lack of action that led to the limitation on the applicant's practice as a physical therapist;
  - c. A description of the limitation on the applicant's practice of physical therapy; and
  - d. If the limitation is based on citizenship requirements of the country in which the professional education was obtained, the applicant shall provide the Board with the legal reference for the restriction in the laws of the country in which the professional education was obtained, a copy of the referenced laws, and an English translation of the laws that meets the standards in subsection (A)(2)(b).
4. If English is not the native language of the foreign-educated applicant, to meet the requirements in A.R.S. § 32-2022(B)(6), the applicant shall take and pass either of the following tests no more than 18 months before the date on which the application submitted under R4-24-201 is administratively complete and ensure that the test scores are sent directly to the Board by the testing entity:
- a. The TOEFL. An applicant who takes the TOEFL passes with the following:
    - i. A score of 560 or more if a paper-based test or a score of 220 or more if a computer-based test;
    - ii. Test of Spoken English with a score of 50 or more; and
    - iii. Test of Written English with a score of 4.5 or more; or
  - b. The iBT. An applicant who takes the iBT passes with an overall test score of a minimum of 100 and a:
    - i. Writing section with a minimum score of 25,
    - ii. Speaking section with a minimum score of 25,
    - iii. Reading section with a minimum score of 25, and
    - iv. Listening section with a minimum score of 25.
5. To demonstrate that the applicant meets uniform criteria for educational requirements according to A.R.S. § 32-2022(E)(3), the applicant shall undergo a credential evaluation to determine that the applicant meets the requirements in the course evaluation tool and arrange to have a credential evaluation report, prepared within 18 months from the date of the application, sent directly to the Board by the credential evaluation agency.
6. To meet the requirements in A.R.S. § 32-2022(B)(5), the applicant shall obtain a work visa to reside and seek employment in the United States issued by the Bureau of Citizenship and Immigration Services and submit a copy of the work visa to the Board.
- B.** After receiving a credential evaluation report from a credential evaluation agency, the Board:
- 1. If the credential evaluation report does not establish that the education obtained by the foreign-educated applicant is substantially equivalent to the education required of a physical therapist in an accredited education program, may require the applicant to:
    - a. Complete one or more university or college courses and obtain a grade of C or better in each course;
    - b. Complete a college level examination program; or
    - c. If an applicant for a license, complete one or more continuing competence courses; and
  - 2. Shall issue, within the time-frames stated in Table 1, an interim permit to complete a supervised clinical practice to the applicant if:
    - a. The applicant was required to meet one or more of the requirements in subsection (B)(1) and completes the requirements; or
    - b. The credential evaluation report establishes that the education obtained by the foreign-educated applicant is substantially equivalent to the education required of a physical therapist in an accredited education program; and
    - c. The applicant has passed the national examination and jurisprudence examination; and
    - d. The applicant meets the requirements in A.R.S. Title 32, Chapter 19 and R4-24-201.

#### Historical Note

Adopted effective June 3, 1982 (Supp. 82-3). Amended subsection (B) effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008, (Supp. 08-3). Amended by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

#### R4-24-204. Supervised Clinical Practice

- A.** An interim permit holder shall complete a supervised clinical practice under onsite supervision. The supervised clinical practice shall consist of at least 500 hours.
- B.** Before an individual is issued an interim permit, the individual shall submit to the Board:
- 1. A written request for Board approval of the facility where supervised clinical practice will take place that includes:
    - a. The name, address, and telephone number of the facility; and
    - b. A description of the physical therapy services provided at the facility; and
  - 2. The name of the individual who holds an unrestricted license to practice physical therapy in this state and agrees to provide onsite supervision of the individual.
- C.** The Board shall approve or deny a request made under subsection (B)(1):
- 1. After assessing whether the facility provides the opportunity for an interim permit holder to attain the knowledge, skills, and attitudes to be evaluated according to the Physical Therapist Assistant Clinical Performance Instrument or Physical Therapist Clinical Performance Instrument; and
  - 2. According to the time-frames in Table 1.
- D.** An onsite supervisor shall:
- 1. Observe the interim permit holder during the supervised clinical practice and:
    - a. Rate the interim permit holder's performance, at both the mid-point and completion of the clinical practice, on each of the clinical performance criteria in the Physical Therapist Clinical Performance Instrument or Physical Therapist Assistant Clinical Performance Instrument, including the dates and hours the onsite supervisor provided onsite supervision;
    - b. Recommend following the mid-point rating whether the interim permit holder be allowed to continue the clinical practice and changes needed, if any, to ensure successful completion of the clinical practice; and
    - c. Recommend following the completion rating whether the interim permit holder be licensed or

## Board of Physical Therapy

required to complete further supervised clinical practice; and

2. Submit the ratings on the Physical Therapist Clinical Performance Instrument or Physical Therapist Assistant Clinical Performance Instrument to the Board as follows:
  - a. No later than the 55th day of the clinical practice for the mid-point rating, and
  - b. No later than 30 days after the end of the supervised clinical practice for the completion rating.
- E. After the Board receives the mid-point rating on the Physical Therapist Clinical Performance Instrument or Physical Therapist Assistant Clinical Performance Instrument, the Board shall review the rating and recommendation of the onsite supervisor and decide whether to allow the interim permit holder to continue the clinical practice or recommend changes in the clinical practice to the onsite supervisor.
- F. After the Board receives the completion rating on the Physical Therapist Clinical Performance Instrument or Physical Therapist Assistant Clinical Performance Instrument, the Board:
  1. May require the interim permit holder to complete additional onsite supervision under the interim permit if the additional onsite supervision does not cause the interim permit holder to exceed six months from the date the interim permit was issued and:
    - a. The onsite supervisor does not approve one or more of the skills listed on the Physical Therapist Clinical Performance Instrument or Physical Therapist Assistant Clinical Performance Instrument;
    - b. The onsite supervisor recommends that the interim permit holder complete further supervised clinical practice; or
    - c. The Board determines that the interim permit holder has not met the requirements in A.R.S. Title 32, Chapter 19 and this Chapter.
  2. If the interim permit holder meets all of the requirements in A.R.S. Title 32, Chapter 19 and this Chapter, shall issue:
    - a. A license to an applicant for a license, or
    - b. A certificate to an applicant for a certificate.
  3. If the applicant, licensee, or certificate-holder does not meet all of the requirements in A.R.S. Title 32, Chapter 19 and this Chapter, shall deny:
    - a. A license to an applicant for a license, or
    - b. A certificate to an applicant for a certificate.
- G. An applicant who has been denied a license or certificate may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-103 renumbered and amended as Section R4-24-102, former Section R4-24-104 renumbered and amended as Section R4-24-103 effective April 10, 1986 (Supp. 86-2). Former Section R4-24-204 renumbered to R4-24-205, new Section R4-24-204 renumbered from Section R4-24-103 and amended effective May 7, 1990 (Supp. 90-2). Amended effective March 14, 1996 (Supp. 96-1). Former Section R4-24-204 renumbered to R4-24-206; new Section R4-24-204 renumbered from R4-24-202 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 307, effective January 13, 2003 (Supp. 03-1). Former Section R4-24-204 renumbered to R4-24-205; new Section R4-24-204 made by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 376, effective March 8, 2008 (Supp. 08-1). Amended by

final rulemaking at 14 A.A.R. 3418, effective October 4, 2008, (Supp. 08-3).

**R4-24-205. Examination Scores**

- A. To be licensed as a physical therapist, an applicant shall obtain:
  1. A scaled score of 600 or more, based on a scale ranging from 200 to 800 on a national examination for physical therapists taken on or after March 14, 1996; or
  2. A raw score that is no lower than 1.50 standard deviation below the national average for a national examination for physical therapists taken before March 14, 1996.
- B. To be certified as a physical therapist assistant, an applicant for certification shall obtain:
  1. A scaled score of 600 or more based on a scale ranging from 200 to 800 on a national examination for physical therapist assistants taken on or after March 14, 1996; or
  2. A raw score that is no lower than 1.50 standard deviation below the national average for a national examination for physical therapist assistants taken before March 14, 1996.
- C. In addition to the requirements in subsections (A) and (B), to be licensed as a physical therapist or certified as a physical therapist assistant, an applicant shall obtain a scaled score of 600 or more based on a scale ranging from 200 to 800 on a jurisprudence examination.

**Historical Note**

Adopted effective April 10, 1986 (Supp. 86-2). Former Section R4-24-205 renumbered to R4-24-206, new Section R4-24-205 renumbered from Section R4-24-204 and amended effective May 7, 1990 (Supp. 90-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Former Section R4-24-205 renumbered to R4-24-207; new Section R4-24-205 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Former Section R4-24-205 repealed; new Section R4-24-205 renumbered from R4-24-204 and amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**R4-24-206. Renumbered****Historical Note**

Section R4-24-205 adopted effective April 10, 1986 (Supp. 86-2). Section R4-24-206 renumbered from Section R4-24-205 and amended effective May 7, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Former Section R4-24-206 repealed; new Section R4-24-206 renumbered from R4-24-204 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5465, effective February 4, 2006 (Supp. 05-4). Section R4-24-206 renumbered to R4-24-107 by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**R4-24-207. Application for a Physical Therapist Assistant Certificate**

- A. An applicant for an original physical therapist assistant certificate shall submit to the Board an application packet that includes:
  1. An application form provided by the Board, signed, dated, and verified by the applicant that contains:
    - a. The applicant's name, business and residential addresses, telephone number, birth date, and Social Security number;

- b. The name and address of the college or university where the applicant completed an accredited educational program for physical therapist assistants, dates of attendance, and date of completion;
  - c. A statement of whether the applicant has ever been licensed or certified as a physical therapist assistant in any other jurisdiction of the United States or foreign country;
  - d. Professional employment history for the five years before the date of application including the name, address, and telephone number for each place of employment, job title, description of the work completed, and explanation of any breaks in employment, if applicable;
  - e. A statement of whether the applicant has ever been convicted of, pled guilty to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
  - f. A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
  - g. A statement of whether the applicant is currently or ever has been under investigation, suspension, or restriction by a professional licensing board in any jurisdiction of the United States or foreign country for any act that occurred in that jurisdiction that would be the subject of discipline under this Chapter and if so, an explanation;
  - h. A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or postsecondary educational institution;
  - i. A statement of whether the applicant has committed any of the actions referenced in the definition of good moral character in R4-24-101;
  - j. A statement of whether the applicant has ever had a malpractice judgment or has a lawsuit currently pending for malpractice and if so, an explanation;
  - k. A statement of whether the applicant is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
  - l. A statement of whether the applicant has any impairment to the applicant's cognitive, communicative, or physical ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
  - m. A statement of whether the applicant has, within the past 10 years, used alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the applicant's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
  - n. A statement of whether the applicant has, within the past 10 years, been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the applicant's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
  - o. A statement of whether the applicant has ever violated A.R.S. § 32-2044(10); and
  - p. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A passport photograph of the applicant no larger than 1 1/2 x 2 inches that was taken not more than six months before the date of the application;
  3. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.; and
  4. The fee required in R4-24-107.
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have directly submitted to the Board:
1. An official transcript or letter showing that the applicant completed all requirements of an accredited educational program that includes the official seal of the school or college where the applicant completed the accredited educational program and signature of the registrar of the school or college;
  2. Verification of passing a national examination for physical therapist assistants as evidenced by an original notice of examination results; and
  3. Verification of passing a jurisprudence examination as evidenced by an original notice of examination results.
- C.** In addition to the requirements in subsections (A) and (B), an applicant for a physical therapist assistant certificate by endorsement shall submit to the Board:
1. The name of the licensing or certifying agency of any jurisdiction in which the applicant is currently or has been previously licensed or certified; and
  2. A verification of license or certificate, signed and dated by an official of the agency licensing or certifying the applicant, that includes the official seal of the licensing or certifying agency and all of the following:
    - a. The name of the applicant;
    - b. The license or certificate number and date of issuance;
    - c. The current status of the license or certificate;
    - d. The expiration date of the license or certificate;
    - e. A statement of whether the applicant was ever denied a license or certificate by the agency and if so, an explanation; and
    - f. A statement of whether any disciplinary action is pending or has ever been taken against the applicant and if so, an explanation.
- D.** The Board shall deny a certificate to an applicant who fails to meet the requirements of this Section or A.R.S. Title 32, Chapter 19. A person denied a certificate may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Former Section R4-24-207 renumbered to R4-24-209; new Section R4-24-207 renumbered from R4-24-205 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 376, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008, (Supp. 08-3).

#### R4-24-208. License or Certificate Renewal; Address Change

- A.** A licensee or certificate holder shall submit a renewal application packet to the Board on or before August 31 of an even-numbered year that includes:
1. The following information for the license or certificate period immediately preceding the renewal application:

## Board of Physical Therapy

- a. The licensee's or certificate holder's:
    - i. Name;
    - ii. Home, business, and e-mail addresses; and
    - iii. Home and business telephone numbers;
  - b. A statement of whether the licensee or certificate holder has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
  - c. A statement of whether the licensee or certificate holder has had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
  - d. A statement of whether the licensee or certificate holder is currently or ever has been under investigation, suspension, or restriction by a professional licensing board in any jurisdiction of the United States or foreign country for any act that occurred in that jurisdiction that would be the subject of discipline under this Chapter and if so, an explanation;
  - e. A statement of whether the licensee or certificate holder has been the subject of disciplinary action by a professional association or postsecondary educational institution;
  - f. A statement of whether the licensee or certificate holder has had a malpractice judgment against the licensee or certificate holder or has a lawsuit currently pending for malpractice and if so, an explanation;
  - g. A statement of whether the licensee or certificate holder is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
  - h. A statement of whether the licensee or certificate holder has adhered to the recognized standards of ethics;
  - i. A statement of whether the licensee or certificate holder has or has not committed any of the actions referenced in the definition of good moral character in R4-24-101;
  - j. A statement of whether the licensee or certificate holder has been the subject of any criminal investigation by a federal, state, or local agency or had criminal charges filed against the licensee or certificate holder;
  - k. If a licensee, a statement of whether the licensee has:
    - i. Any impairment to the licensee's cognitive, communicative, or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
    - ii. Used alcohol, any illegal chemical substance, or prescription medicine, that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety and if so, an explanation;
    - iii. Been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety and if so, an explanation;
  - l. If a certificate holder, a statement of whether the certificate holder has:
    - i. Any impairment to the certificate holder's cognitive, communicative, or physical ability to work as a physical therapist assistant with skill and safety and if so, an explanation;
    - ii. Used alcohol, any illegal chemical substance or prescription medicine, that in any way has impaired or limited the certificate holder's ability to work as a physical therapist assistant with skill and safety and if so, an explanation;
    - iii. Been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited certificate holder's ability to work as a physical therapist assistant with skill and safety and if so, an explanation;
  - m. A statement of whether the licensee or certificate holder has ever violated A.R.S. § 32-2044(10);
  - n. If a licensee, a statement of whether the licensee has completed the 20 contact hours of continuing competence for the previous compliance period as required in R4-24-401(A) and (E); and
  - o. If a licensee, a statement of whether the licensee has complied with the medical records protocol as required in A.R.S. § 32-3211.
2. The signature of the applicant attesting to the truthfulness of the information provided by the licensee or certificate holder;
  3. Evidence of the applicant's U.S. citizenship, alien status, legal residency, or lawful presence in the U.S.; and
  4. The fee required by the Board in R4-24-107.
- B.** Failure of the Board to inform a licensee or certificate holder of license or certificate expiration does not excuse the licensee's or certificate holder's non-renewal or untimely renewal.
- C.** The Board shall:
1. Approve or deny the application within the time-frames in R4-24-209 and Table 1, and
  2. Deny the application of an applicant who does not meet the requirements in A.R.S. § 32-2001 et seq. or this Chapter.
- D.** A licensee or certificate holder denied renewal of a license or certificate may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.
- E.** A licensee or certificate holder shall send to the Board written notification of a change in any of the information provided under subsection (A)(1)(a) no later than 30 days after the date of the change.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 376, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008, (Supp. 08-3). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

**R4-24-209. Time-frames for Board Approvals**

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the substantive review time-frame and overall time-frame. The overall time-frame and the substantive review time-frame may not be extended by more than 25% of the overall time-frame.

- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is listed in Table 1.
1. The administrative completeness review time-frame begins:
    - a. When the Board receives an application packet for an initial or renewal license or certificate or
    - b. When the Board receives a request for approval of a facility.
  2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
    - a. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
    - b. An applicant who disagrees with the Board's statement of deficiencies may request a hearing as provided in A.R.S. § 32-2023.
  3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
  4. If the Board grants a license, certificate, or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the postmark date of the notice of administrative completeness.
1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
  2. The Board shall send a written notice of approval of a license or certificate to an applicant who meets the qualifications in A.R.S. §§ 32-2001 through 32-2027 and this Chapter.
  3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-2001 through 32-2027 and these rules.
- D.** The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
1. Supply the missing information requested under subsection (B)(2) or (C)(1); or
  2. Take the national physical therapist examination or national physical therapist assistant examination.
- E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.
- F.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Board shall consider the next business day the time-frame's last day.

**Historical Note**

New Section R4-24-209 renumbered from R4-24-207 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

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

Type of Applicant	Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Original License (R4-24-201)	License	A.R.S. §§ 32-2022; 32-2023	75	30	45
License by Endorsement (R4-24-201)	License by Endorsement	A.R.S. § 32-2026	75	30	45
Physical Therapist Assistant Certificate (R4-24-207)	Certificate	A.R.S. §§ 32-2022; 32-2023	75	30	45
Foreign-educated (R4-24-203)	License	A.R.S. §§ 32-2022; 32-2025	75	45	30
Renewal of license or certificate (R4-24-208)	License or certificate	A.R.S. § 32-2027	30	15	15
Foreign-educated and Supervised Clinical Practice (R4-24-203, R4-24-204)	Interim Permit and Approval of Facility	A.R.S. § 32-2025	60	30	30
Reinstatement (R4-24-202)	Reinstatement of License or Certificate	A.R.S. § 32-2028	30	15	15
Initial Registration of a Business Entity	Registration	A.R.S. § 32-2030	30	15	15

## Board of Physical Therapy

Renewal of Registration of a Business Entity	Registration	A.R.S. § 32-2030(D)	15	7	8
--	--------------	---------------------	----	---	---

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 2988, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2). Amended by final rulemaking at 15 A.A.R. 1788, effective December 5, 2009 (Supp. 09-4). Amended by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-210. Business Entity Registration; Display of Registration Certificate**

- A.** A business entity that offers physical therapy services to the public and is not exempt from registration under A.R.S. § 32-2030(H) shall separately register with the Board each location from which physical therapy services are offered in Arizona.
- B.** A business entity shall not offer physical therapy services at a location in Arizona until that location is registered with the Board.
- C.** To register with the Board an Arizona location at which physical therapy services are offered, a business entity shall submit to the Board an application packet that includes the following:
  1. An application form, which is available from the Board and requires the following information:
    - a. Name and primary address of the business entity;
    - b. Name, title, address, and telephone number of the manager of the location being registered;
    - c. Name and business address of each officer or director of the business entity;
    - d. Name and license number of each physical therapist who provides physical therapy services at the location being registered;
    - e. Name and certificate number of each physical therapy assistant who works at the location being registered;
    - f. Description of the physical therapy services offered at the location being registered;
    - g. For the business entity, a statement of whether any state, territory, district, or country has ever:
      - i. Refused to issue or renew a registration, permit, license, or other authorization;
      - ii. Accepted surrender of a registration, permit, license, or other authorization in lieu of other disciplinary action; or
      - iii. Suspended, revoked, cancelled, or taken other disciplinary action against a registration, permit, license, or other authorization; and
    - h. Dated and notarized signature of an officer or director attesting that:
      - i. The business entity has a written protocol that meets the standards in A.R.S. § 32-2030(F) for the secure storage, transfer, and access of the physical therapy records of the business entity's patients; and
      - ii. The information provided is true and correct; and
  2. The application fee required under R4-24-107(A)(3).
- D.** For each location registered, a business entity shall display, in a location accessible to public view, the:
  1. Registration certificate and current renewal verification of the business entity,
  2. License and current renewal verification of every physical therapist who provides physical therapy services at the location, and
  3. Certificate and current renewal verification of every physical therapy assistant who works at the location.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-211. Renewal of Business Entity Registration**

- A.** The registration of a business entity expires for each location registered on August 31 of every odd-numbered year.
- B.** A business entity shall separately renew the registration of each location from which the business entity offers physical therapy services in Arizona.
- C.** To renew the registration of an Arizona location from which physical therapy services are offered, a business entity shall submit to the Board an application form, which is available from the Board and requires the following information:
  1. Name and primary address of the business entity;
  2. Name, title, address, and telephone number of the manager of the location being registered;
  3. Name and business address of each officer or director of the business entity;
  4. Name and license number of each physical therapist who provides physical therapy services at the location being registered;
  5. Name and certificate number of each physical therapy assistant who works at the location being registered;
  6. Description of the physical therapy services offered at the location being registered;
  7. For the business entity, a statement of whether any state, territory, district, or country has ever:
    - a. Refused to issue or renew a registration, permit, license, or other authorization;
    - b. Accepted surrender of a registration, permit, license, or other authorization in lieu of other disciplinary action; or
    - c. Suspended, revoked, cancelled, or taken other disciplinary action against a registration, permit, license, or other authorization;
  8. Statement of whether the business entity complies with A.R.S. § 32-2030(F); and
  9. Dated and notarized signature of an officer or director attesting that the information provided is true and correct.
- D.** A business entity that timely complies with subsection (C) may continue to offer physical therapy services from the location for which application is made until the Board grants or denies the renewed registration.
- E.** A business entity that fails to comply timely with subsection (C) shall immediately stop offering physical therapy services from the location for which application is not made. To be authorized to offer physical therapy services again from that location, the business entity shall comply with R4-24-210 and pay both the application and late fee specified in R4-24-207(A)(3).

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-212. Regulation of a Business Entity**

- A.** A business entity may submit a complaint under A.R.S. § 32-2030 or 32-2045(D) by complying with R4-24-305.



- B. The Board shall investigate and act on a complaint, whether submitted by or against a business entity, in a manner consistent with R4-24-305, R4-24-306, R4-24-307, R4-24-308, and R4-24-309.
- C. As provided under A.R.S. § 32-2047, a business entity that violates a requirement of A.R.S. § 32-2030 is subject to disciplinary action by the Board.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**R4-24-213. Business Entity Participation**

A registered business entity may provide assistance and advice to the Board relating to the regulation of business entities by:

1. Participating in the rulemaking process in a manner described under A.R.S. Title 41, Chapter 6, Article 3;
2. Submitting a petition under A.R.S. § 41-1033 and R4-24-502;
3. Submitting an appeal under A.R.S. § 41-1056.01 and R4-24-502;
4. Submitting a written criticism under R4-24-506; and
5. Attending a Board meeting.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 841, effective May 11, 2012 (Supp. 12-1).

**EXHIBIT 1. Repealed****Historical Note**

Exhibit 1 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Exhibit 1 repealed by final rulemaking at 12 A.A.R. 2401, effective August 5, 2006 (Supp. 06-2).

**ARTICLE 3. PRACTICE OF PHYSICAL THERAPY****R4-24-301. Lawful Practice**

- A. A physical therapist shall provide the referring practitioner, if any, with information from the patient assessment, diagnosis, and plan of care. Within one week after a patient is initially evaluated, the physical therapist shall provide this information:
  1. In writing and place a copy of the written notice in the patient's record, or
  2. Orally and place a contemporaneously made note of the verbal communication in the patient's record.
- B. A physical therapist shall maintain the confidentiality of patient records as required by federal and state law.
- C. On written request by a patient or the patient's health care decision maker, a physical therapist shall provide access to or a copy of the patient's medical or payment record in accordance with A.R.S. § 12-2293.
- D. A physical therapist shall obtain a patient's consent before examination and treatment and document the consent in the patient's record.
- E. A physical therapist shall respect a patient's right to make decisions regarding examination and the recommended plan of care including the patient's decision regarding consent, modification of the plan of care, or refusal of examination or treatment. To assist the patient in making these decisions, the physical therapist shall:
  1. Communicate to the patient:
    - a. Examination findings,
    - b. Evaluation of the findings, and
    - c. Diagnosis and prognosis,
  2. Collaborate with the patient to establish the goals of treatment and the plan of care, and

3. Inform the patient that the patient is free to select another physical therapy provider.

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Former Section R4-24-301 repealed, new Section R4-24-301 adopted effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 15 A.A.R. 1788, effective December 5, 2009 (Supp. 09-4).

**R4-24-302. Use of Titles**

- A. As required under A.R.S. § 32-2042, a licensed physical therapist shall use the designation "P.T." immediately following the licensee's name or signature to denote licensure. A licensed physical therapist shall not use the designations "R.P.T." or "L.P.T." in connection with the physical therapist's name or place of business.
- B. In addition to and immediately following the "P.T." designation, a physical therapist may list academic degrees earned and professional specialty certifications held.
- C. As required under A.R.S. § 32-2042, a physical therapist assistant shall use the designation "P.T.A." immediately following the physical therapist assistant's name to denote certification.
- D. As required under A.R.S. § 32-2042, a physical therapist or physical therapist assistant who is on retired status shall use "(retired)" or "(ret.)" immediately after the designation required under subsection (A) or (C), as applicable.

**Historical Note**

Adopted effective June 1, 1982 (Supp. 82-3). Former Section R4-24-302 repealed, new Section R4-24-302 adopted effective April 10, 1986 (Supp. 86-2). Amended effective March 14, 1996 (Supp. 96-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

**R4-24-303. Patient Care Management**

- A. A physical therapist is responsible for the scope of patient management in the practice of physical therapy as defined by A.R.S. § 32-2001. For each patient, the physical therapist shall:
  1. Perform and document an initial evaluation;
  2. Perform and document periodic reevaluation;
  3. Document a discharge summary and the patient's response to the course of treatment at discharge;
  4. Ensure that the patient's physical therapy record is complete and accurate; and
  5. Ensure that services reported for billing, whether billed directly to the patient or through a third party, are accurate and consistent with information in the patient's physical therapy record.
- B. On each date of service, a physical therapist shall:
  1. Perform and document each therapeutic intervention that requires the expertise of a physical therapist; and
  2. Determine, based on a patient's acuity and treatment plan, whether it is appropriate to use assistive personnel to perform a selected treatment intervention or physical therapy task for the patient.
- C. A physical therapist shall not supervise more than three assistive personnel at any time. If a physical therapist supervises three assistive personnel, the physical therapist shall ensure that:

## Board of Physical Therapy

1. At least one of the assistive personnel is a physical therapist assistant,
  2. No more than two of the assistive personnel are physical therapist assistants performing selected treatment interventions under general supervision, and
  3. Assistive personnel other than a physical therapist assistant perform a physical therapy task only under the onsite supervision of a physical therapist.
- D.** Before delegating performance of a selected treatment intervention to a physical therapist assistant working under general supervision, the supervising physical therapist shall ensure that the physical therapist assistant:
1. Is certified under this Chapter, and
  2. Has completed at least 2,000 hours of experience as a physical therapist assistant working with patients under onsite supervision.
- E.** Before delegating performance of a selected physical therapy intervention or physical therapy task to assistive personnel working under general or onsite supervision, the supervising physical therapist shall ensure that the assistive personnel is qualified by education or training to perform the selected physical therapy intervention or physical therapy task in a safe, effective, and efficient manner.
- F.** A physical therapist who provides general supervision for a physical therapist assistant shall:
1. Be licensed under this Chapter;
  2. Respond to a communication from the physical therapist assistant within 15 minutes;
  3. Go to the location at which and on the same day that the physical therapist assistant provides a selected treatment intervention if the physical therapist, after consultation with the physical therapist assistant, determines that going to the location is in the best interest of the patient; and
  4. Perform a reevaluation and provide each therapeutic intervention for the patient that is done on the day of the reevaluation every fourth treatment visit or every 30 days, whichever occurs first.
- G.** A physical therapist assistant who provides a selected treatment intervention under general supervision shall document in the patient record:
1. The name and license number of the supervising physical therapist;
  2. The name of the patient to whom the selected treatment intervention is provided;
  3. The date on which the selected treatment intervention is provided;
  4. The selected treatment intervention provided; and
  5. Whether the physical therapist assistant consulted with the supervising physical therapist during the course of the selected treatment intervention and if so, the subject of the consultation and any decision made.
- c. Signed with the name and legal designation of the individual making the entry;
  2. If an electronic signature is used to sign an entry, the electronic signature is secure;
  3. The patient record contains sufficient information to:
    - a. Identify the patient on each page of the patient record,
    - b. Justify the therapeutic intervention,
    - c. Document results of the therapeutic intervention,
    - d. Indicate advice or cautionary warnings provided to the patient,
    - e. Enable another physical therapist to assume the patient's care at any point in the course of therapeutic intervention, and
    - f. Describe the patient's medical history.
  4. If an individual other than a physical therapist or physical therapist assistant makes an entry into the patient record, the supervising physical therapist co-signs the entry;
  5. If it is determined that erroneous information is entered into the patient record:
    - a. The error is corrected in a manner that allows the erroneous information to remain legible, and
    - b. The individual making the correction dates and initials the correct information; and
  6. For each date of service there is an accurate record of the physical therapy services provided and billed.
- B.** Initial evaluation. As required by A.R.S. § 32-2043(F)(1), a physical therapist shall perform the initial evaluation of a patient. The physical therapist who performs an initial evaluation shall make an entry that meets the standards in subsection (A) in the patient record and document:
1. The patient's reason for seeking physical therapy services;
  2. The patient's relevant medical diagnoses or conditions;
  3. The patient's signs and symptoms;
  4. Objective data from tests or measurements;
  5. The physical therapist's interpretation of the results of the examination;
  6. Clinical rationale for therapeutic intervention;
  7. A plan of care that includes the proposed therapeutic intervention, measurable goals, and frequency and duration of therapeutic intervention; and
  8. The patient's prognosis.
- C.** Therapeutic-intervention notes. For each date that a therapeutic intervention is provided to a patient, the individual who provides the therapeutic intervention shall make an entry that meets the standards in subsection (A) in the patient record and document:
1. The patient's subjective report of current status or response to therapeutic intervention;
  2. The therapeutic intervention provided or appropriately supervised;
  3. Objective data from tests or measures, if collected;
  4. Instructions provided to the patient, if any; and
  5. Any change in the plan of care required under subsection (B)(7).
- D.** Re-evaluation. As required by A.R.S. § 32-2043(F)(2), a physical therapist shall perform a re-evaluation when a patient fails to progress as expected, progresses sufficiently to warrant a change in the plan of care, or in accordance with R4-24-303(F)(4). A physical therapist who performs a re-evaluation shall make an entry that meets the standards in subsection (A) in the patient record and document:
1. The patient's subjective report of current status or response to therapeutic intervention;
  2. Assessment of the patient's progress;

**Historical Note**

Adopted effective June 3, 1982 (Supp. 82-3). Repealed effective April 10, 1986 (Supp. 86-2). New Section R-24-303 adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 13 A.A.R. 1640, effective June 30, 2007 (Supp. 07-2).

**R4-24-304. Adequate Patient Records**

- A.** A physical therapist shall ensure that a patient record meets the following minimum standards:
1. Each entry in the patient record is:
    - a. Legible,
    - b. Accurately dated, and

3. The patient's current functional status;
  4. Objective data from tests or measures, if collected;
  5. Rationale for continuing therapeutic intervention; and
  6. Any change in the plan of care required under subsection (B)(7).
- E.** Discharge summary. As required by A.R.S. § 32-2043(F)(3), a physical therapist shall document the conclusion of care in a patient's record regardless of the reason that care is concluded.
1. If care is provided in an acute-care hospital, the entry made under subsection (C) on the last date that a therapeutic intervention is provided constitutes documentation of the conclusion of care if the entry is made by a physical therapist.
  2. If care is not provided in an acute-care hospital or if a physical therapist does not make the entry under subsection (C) on the last date that a therapeutic intervention is provided, a physical therapist shall make an entry that meets the standards in subsection (A) in the patient record and document:
    - a. The date on which therapeutic intervention terminated;
    - b. The reason that therapeutic intervention terminated;
    - c. Inclusive dates for the episode of care being terminated;
    - d. The total number of days on which therapeutic intervention was provided during the episode of care;
    - e. The patient's current functional status;
    - f. The patient's progress toward achieving the goals in the plan of care required under subsection (B)(7); and
    - g. The recommended discharge plan.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-304 renumbered to R4-24-305; new Section R4-24-304 made by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

#### R4-24-305. Complaints and Investigations

- A.** A complainant shall ensure that a complaint filed with the Board is about:
1. An individual licensed or certified under this Chapter; or
  2. An individual believed to be engaged in unlawful practice as described in A.R.S. § 32-2048.
- B.** If the Board determines under A.R.S. § 32-2045(A)(2) that there is reason to believe that an individual may have violated A.R.S. Title 32, Chapter 19, or this Chapter, the Board shall prepare a complaint and serve the complaint as described in subsection (D)(2).
- C.** Complaint requirements. A complainant shall:
1. Submit the complaint to the Board in writing; and
  2. Provide the following information:
    - a. Name of licensee, certificate holder, or other individual who is the subject of complaint;
    - b. Name and address of complainant;
    - c. Nature of the complaint;
    - d. Details of the complaint with pertinent dates and activities;
    - e. Whether the complainant has contacted any other organization regarding the complaint; and
    - f. Whether complainant has contacted the licensee, certificate holder, or other individual concerning the complaint, and if so, the response, if any.
- D.** Within 90 days after receiving a complaint, the Board shall ensure that the complaint is reviewed to determine whether the complaint is within the Board's jurisdiction, and:

1. If the complaint is not within the Board's jurisdiction, dismiss the complaint and provide written notice of the dismissal to the complainant; or
  2. If the complaint is within the Board's jurisdiction, serve a copy of the complaint on the individual complained against and provide the individual complained against with 30 days to respond and admit, deny, or further explain each allegation in the complaint.
- E.** If a complaint is within the Board's jurisdiction, the Board shall ensure that an investigation regarding the matters alleged in the complaint is conducted.
- F.** After expiration of the 30 days provided under subsection (D)(2), the Board shall review the complaint, response, and investigation results and take action as prescribed under A.R.S. §§ 32-2045(B) or 32-2046.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-305 renumbered to R4-24-306; new Section R4-24-305 renumbered from R4-24-304 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

#### R4-24-306. Hearings

- A.** To facilitate investigation of a complaint, the Board may conduct an informal hearing. The Board shall send written notice of an informal hearing to the individual who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 30 days before the informal hearing.
- B.** The Board shall ensure that the written notice of informal hearing contains the following information:
1. The time, date, and place of the informal hearing;
  2. An explanation of the informal nature of the proceedings;
  3. The individual's right to appear with or without legal counsel;
  4. A statement of the allegations and issues involved with a citation to relevant statutes and rules;
  5. The individual's right to a formal hearing under A.R.S. Title 41, Chapter 6, Article 10 instead of the informal hearing;
  6. The licensee's or certificate holder's right to request under A.R.S. § 32-3206(A) a copy of information the Board will use in making its determination; and
  7. Notice that the Board may take disciplinary action as a result of the informal hearing if it finds the individual violated A.R.S. Title 32, Chapter 19, or this Chapter;
- C.** The Board shall ensure that an informal hearing proceeds as follows:
1. Introduction of the respondent and, if applicable, legal counsel for the respondent;
  2. Introduction of the Board members, staff, and Assistant Attorney General present;
  3. Swearing in of the respondent and witnesses;
  4. Brief summary of the allegations and purpose of the informal hearing;
  5. Optional opening comment by the respondent;
  6. Questioning of the respondent by the Board and questioning of witnesses by the Board and the respondent;
  7. Optional additional comments by the respondent; and
  8. Deliberation and deciding the case by the Board.

#### Historical Note

New Section R4-24-306 renumbered from R4-24-107 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-306 renumbered to R4-24-307; new Section R4-24-306 renumbered

## Board of Physical Therapy

from R4-24-305 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

**R4-24-307. Subpoenas**

- A.** A party desiring issuance of a subpoena to compel the appearance of a witness or the production of documents or other evidence at a hearing shall file a written request with the Board that includes the following information:
  1. The caption and docket number of the matter;
  2. A list or description of any documents or other evidence sought;
  3. The name and business address of the custodian of the documents or other evidence sought;
  4. The name and business or residential address of all persons to be subpoenaed;
  5. A brief statement of the reason the evidence is relevant to the matter;
  6. The date, time, and place to appear or produce documents or other evidence; and
  7. The name, address, and telephone number of the party, or the party's attorney, requesting the subpoena.
- B.** The party requesting a subpoena be issued shall ensure that the subpoena is served in the manner prescribed by the Arizona Rules of Civil Procedure and pay all costs involved in serving the subpoena.
- C.** A party or the person served with a subpoena who objects to the subpoena, in whole or in part, may file a written objection with the Board within five days after service of the subpoena or at the beginning of the hearing if the subpoena is served fewer than five days before the hearing.
- D.** The Board shall quash or modify a subpoena if:
  1. It is unreasonable or oppressive,
  2. It requests information that is confidential or privileged, or
  3. The desired testimony or evidence can be obtained by an alternative method.

**Historical Note**

New Section R4-24-307 renumbered from R4-24-109 and amended by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-307 renumbered to R4-24-308; new Section R4-24-307 renumbered from R4-24-306 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

**R4-24-308. Rehearing or Review of Board Decisions**

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10.
- B.** Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalty;

6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing or review to any or all of the parties on all or part of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F.** No later than 30 days after making a decision and after giving the parties notice and an opportunity to be heard, the Board may order a rehearing or review on its own initiative for any of the reasons listed in subsection (D). The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G.** When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended for not more than 20 days by the Board for good cause as described in subsection (I) or by written stipulation of the parties. The Board may permit reply affidavits.
- H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I.** If the Board makes a specific finding that immediate effectiveness of a particular decision is necessary for preservation of the public health, safety, or welfare and that rehearing or review is impracticable, unnecessary, or contrary to public interest, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-308 renumbered to R4-24-309; new Section R4-24-308 renumbered from R4-24-307 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

**R4-24-309. Disciplinary Actions**

- A.** As required by A.R.S. § 39-121.01, a record of Board disciplinary actions, including a decree of censure, is a public record open to public inspection.
- B.** If the Board decides to restrict a license or certificate, the Board shall ensure that the restriction and any required corrective action address the conduct that led to the restriction and protect the public. If the Board decides to require that an individual with a restricted license or certificate be supervised during the period of restriction, the Board shall appoint an unrestricted licensee to provide the supervision.
- C.** A physical therapist or physical therapist assistant whose license or certificate is suspended, revoked, or voluntarily surrendered shall return the license or certificate to the Board within 10 days after receipt of the Board's final order.
- D.** At the end of a period of license or certificate restriction, the Board shall terminate the restriction only if the licensee or certificate holder submits to the Board evidence of having completed all required corrective actions and complied with all

terms of the restriction. If the Board believes it will help the Board determine whether to terminate a restriction, the licensee or certificate holder shall appear before the Board.

- E. An applicant who had a previous license or certificate revoked by the Board shall appear before the Board before the Board acts on the application.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). R4-24-309 renumbered to R4-24-310; new Section R4-24-309 renumbered from R4-24-308 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

#### R4-24-310. Substance Abuse Recovery Program

- A. Under A.R.S. § 32-2044(8), practicing as a physical therapist or working as a physical therapist assistant while mentally or physically impaired is grounds for disciplinary action.
- B. The Board shall allow an impaired licensee or certificate holder to enter into a substance abuse recovery program rather than conduct a disciplinary proceeding if:
1. The impaired licensee or certificate holder is qualified under A.R.S. § 32-2050(2),
  2. The Board believes the proposed program will assist the impaired licensee or certificate holder to recover, and
  3. The impaired licensee or certificate holder enters into the written agreement required under A.R.S. § 32-2050(3) and (4).

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3). New Section R4-24-310 renumbered from R4-24-309 and amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

#### R4-24-311. Display of License; Disclosure

- A. A licensee or certificate holder shall display a copy or provide documentation of the license or certificate and current renewal verification as specified in A.R.S. § 32-2051(G).
- B. Upon request, a licensee or certificate holder shall inform a member of the public how to file a complaint by providing the address and telephone number of the Board office and a statement that a complaint against a licensee or certificate holder should be directed to the Board.
- C. Before conducting an evaluation or initiating physical therapy, a licensee shall disclose to a patient when a referring practitioner is deriving direct or indirect compensation from the referral. The licensee shall ensure that the disclosure is in writing and states "Under A.R.S. § 32-2051(C), I am required by law to inform you in writing that your referring physician [or specify if different from a physician] derives either direct or indirect compensation related to your physical therapy."

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3).

#### R4-24-312. Mandatory Reporting Requirement

- A. As required by A.R.S. § 32-3208, an applicant, licensee, or certificate holder who is charged with a misdemeanor involving conduct that may affect patient safety or a felony shall provide written notice of the charge to the Board within 10 working days after the charge is filed.

- B. An applicant, licensee, or certificate holder may request a list of reportable misdemeanors from the Board.

#### Historical Note

New Section made by final rulemaking at 14 A.A.R. 3418, effective October 4, 2008 (Supp. 08-3). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

#### Appendix A. Repealed

#### Historical Note

Appendix A adopted effective June 3, 1982 (Supp. 82-3). Amended effective April 10, 1986 (Supp. 86-2). Repealed effective May 7, 1990 (Supp. 90-2)

#### Appendix B. Repealed

#### Historical Note

Appendix B adopted effective June 3, 1982 (Supp. 82-3). Amended effective April 10, 1986 (Supp. 86-2). Repealed effective May 7, 1990 (Supp. 90-2).

### ARTICLE 4. CONTINUING COMPETENCE

#### R4-24-401. Continuing Competence Requirements for Renewal

- A. Except as provided in subsection (F), beginning September 1, 2000, a licensed physical therapist shall earn 20 contact hours of continuing competence activities for each compliance period to be eligible for renewal of license.
1. The licensee shall earn at least 10 contact hours from Category A continuing competence activities. No more than five of the required contact hours from Category A shall be obtained from nonclinical course work.
  2. No more than 10 contact hours may be earned by the licensee during any compliance period from Categories B and C continuing competence activities. No more than five contact hours from categories B and C may be obtained from nonclinical course work.
  3. If the licensee's initial license is for one year or less, the licensee shall earn 10 contact hours during the initial compliance period.
- B. A licensee shall not receive contact hour credit for repetitions of the same activity.
- C. The continuing competence compliance period for a licensee begins on September 1 following the issuance of an initial license or a license renewal and ends on August 31 of even-numbered years.
- D. A licensee shall not carry over contact hours from one compliance period to another.
- E. An applicant for license renewal shall submit a signed statement to the Board with the renewal application stating whether continuing competence requirements have been fulfilled for the current compliance period.
- F. The Board may, at its discretion, waive continuing competence requirements on an individual basis for reasons of extreme hardship such as illness, disability, active service in the military, or other extraordinary circumstance as determined by the Board. A licensee who seeks a waiver of the continuing competence requirements shall provide to the Board, in writing, the specific reasons for requesting the waiver and additional information that the Board may request in support of the waiver.
- G. A licensee is subject to Board auditing for continuing competence compliance.
1. Selection for audit shall be random and notice of audit sent within 60 calendar days following the license renewal deadline.

## Board of Physical Therapy

2. Within 30 days of receipt of a notice of audit, a licensee shall submit evidence to the Board that shows compliance with the requirements of continuing competence. Documentation of a continuing competence activity shall include:
  - a. The date, place, course title, sponsor, schedule, and presenter;
  - b. The number of contact hours received for the activity; and
  - c. Proof of completion, such as an abstract, certificate of attendance, sign-in log, or other certification of completion.
- H.** A licensee shall retain evidence of participation in a continuing competence activity for the two preceding compliance periods.
- I.** The Board shall notify a licensee who has been audited whether the licensee is in compliance with continuing competence requirements. A licensee shall be notified by the Board, by certified mail, within 30 working days following the determination by the Board.
- J.** A licensee found not in compliance with continuing competence requirements shall have six months from the notice of noncompliance to satisfy the continuing competence requirements. A licensee may request a hearing to contest the Board's decision under A.R.S. Title 41, Chapter 6, Article 10.
- K.** Penalties for failure to comply with continuing competence requirements may be imposed by the Board under A.R.S. § 32-2047 following a hearing conducted under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).

**R4-24-402. Continuing Competence Activities**

- A.** Category A continuing competence activities shall be approved by:
  1. An accredited medical, health care, or physical therapy program;
  2. A state or national medical, health care, or physical therapy association, or a component of the association; or
  3. A national medical, health care, or physical therapy specialty society.
- B.** Category A continuing competence activities include:
  1. A physical therapy continuing education course designed to provide necessary understanding of current research, clinical skills, administration, or education related to the practice of physical therapy. Calculation of contact hours shall be determined by dividing the total minutes of instruction by 60. Breaks shall not be included as part of instructional time;
  2. Coursework towards granting or renewal of a physical therapy clinical specialty certification approved by the Board. Each 60 minutes of instruction equals one contact hour;
  3. Coursework in a physical therapy clinical residency program. Each 60 minutes of instruction equals one contact hour; and
  4. Coursework in a postgraduate physical therapy education from an accredited college or university. Each 60 minutes of instruction equals one contact hour.
- C.** Category B continuing competence activities include:
  1. Study Group, maximum five contact hours.
    - a. A study group is a structured meeting designed for the study of a clinical physical therapy topic dealing with current research, clinical skills, procedures or treatment related to the practice of physical therapy.
    - b. A study group shall have a minimum of three participants and two hours of participation to equal one contact hour.
  2. Self-Instruction, maximum five contact hours.
    - a. Self-instruction is a structured course of study relating to one clinical physical therapy topic dealing with current research, clinical skills, procedures, or treatment related to the practice of physical therapy. Self-instruction may be directed by a correspondence course, video, internet, or satellite program.
    - b. Each 60 minutes of self-instruction equals one contact hour.
  3. Inservice Education, maximum five contact hours.
    - a. Inservice education is attendance at a presentation pertaining to current research, clinical skills, procedures, or treatment related to the practice of physical therapy or relating to patient welfare or safety, including CPR certification.
    - b. Each 60 minutes of inservice education equals one contact hour.
- D.** Category C modes of continuing competence include:
  1. Physical therapy practice management coursework, maximum of five contact hours.
    - a. Physical therapy practice management course work is course work concerning physical therapy administration, professional responsibility, ethical obligations, or legal requirements applicable to physical therapy practice settings.
    - b. If the course is graded, a licensee shall receive a "pass" in a pass/fail course or a minimum of a C in a graded course to receive credit.
    - c. 60 minutes of practice management coursework equals one contact hour.
  2. Teaching or lecturing, maximum five contact hours.
    - a. Teaching or lecturing is the presentation of an original educational program dealing with current research, clinical skills, procedures, treatment, or practice management related to the practice of physical therapy principally for health care professionals. Credit may be earned for teaching when the presentation is accompanied by written materials prepared, augmented, or updated by the presenter including course objectives and program content.
    - b. One 60 minute instructional period equals 2.5 contact hours.
    - c. Credit shall be given only once for a presentation within a compliance period.
  3. Publication, maximum five contact hours.
    - a. Publication includes writing for professional publication, platform, or poster presentation abstracts that have direct application to the practice of physical therapy. Credit may be earned for publication of material that is a minimum of 1500 words in length and published by a recognized third-party publisher of physical therapy material.
    - b. Each article published in a refereed journal, book chapter or book equals 10 contact hours. Articles published in non-refereed journals, magazines, newsletters, or periodicals equal five contact hours.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).

**R4-24-403. Activities Not Eligible for Continuing Competence Credit**

A licensee shall not receive continuing competence credit for the following activities:

1. A regularly scheduled educational opportunity provided within an institution, such as rounds or case conferences;
2. A staff meeting;
3. A publication or presentation by a licensee to a lay or nonprofessional group; and
4. Routine teaching of personnel, students, or staff as part of a job requirement.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).

**ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES****R4-24-501. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-502. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to a Section Based Upon Economic, Small Business, or Consumer Impact**

A petition to adopt, amend, or repeal a Section or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a Section in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. For adoption of a new Section, specific language of the proposed new Section;
3. For amendment of a current Section, citation for the applicable Arizona Administrative Code Section number and heading of the current Section and the specific language of the current Section with language to be deleted stricken and new language underlined;
4. For the repeal of a current Section, citation for the applicable A.A.C. Section number and heading of the Section proposed for repeal;
5. The reasons a Section should be adopted, amended, or repealed, and if in reference to an existing Section, why the Section is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
  - a. Statistical data or other justification, with clear reference to an attached exhibit;
  - b. Identification of what person or segment of the public would be affected and how the person or segment would be affected; and
  - c. If the petitioner is a public agency, a summary of a relevant issue raised in any public hearing, or as a written comment offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reason the existing Board practice or substantive policy state-

ment constitutes a rule and the proposed action requested of the Board;

7. For an objection to a Section based upon the economic, small business, or consumer impact, evidence that:
  - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the Section;
  - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the Section and that actual impact imposes a significant burden on a person subject to the Section; or
  - c. The agency did not select the alternative that imposes the least burden and costs to persons regulated by the Section, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective; and
8. The signature of the person submitting the petition.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 18 A.A.R. 1858, effective July 10, 2012 (Supp. 12-3).

**R4-24-503. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-504. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-505. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

**R4-24-506. Written Criticism of Rule**

- A. Any person may file a written criticism of an existing rule with the Board.
- B. The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- C. The Board shall acknowledge receipt of a criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2399, effective June 9, 2000 (Supp. 00-2).

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS**

(Authority: A.R.S. § 32-2061 et seq.)

*Editor's Note: This Chapter contains amendments that were filed with the Secretary of State on March 3, 1995. At the time of filing, the original copy of the rulemaking package differed from the copy of the package filed at the same time. The Secretary of State uses the copy to prepare the Code supplement. The agency notified the Secretary of State that the wrong version was used. That led to the Secretary of State's discovery of the two versions filed in March 1995. The Secretary of State then used the original package to publish a corrected edition with Supp. 95-2. The Secretary of State has since been advised by the Attorney General that the original version as published with Supp. 95-1 was correct with the exception of one phrase in R4-26-207 that was inadvertently omitted. With this publication, this Chapter reflects the correct amendments, and the omitted phrase in R4-26-207 has now been added.*

**ARTICLE 1. GENERAL PROVISIONS**

Article 1, consisting of Sections R4-26-01 through R4-26-10;  
Article 2, consisting of Sections R4-26-20 through R4-26-28; and  
Article 3, consisting of Sections R4-26-50 through R4-26-57,  
renumbered, refer to Historical Notes (Supp. 81-3).

## Section

- R4-26-101. Definitions
- R4-26-102. Board Officers
- R4-26-103. Official Signatures
- R4-26-104. Advisory Committees
- R4-26-105. Board Records
- R4-26-106. Client Records
- R4-26-107. Current Address
- R4-26-108. Fees
- R4-26-109. Repealed
- R4-26-110. Repealed
- R4-26-111. Reserved
- through
- R4-26-119. Reserved
- R4-26-120. Renumbered
- R4-26-121. Renumbered
- R4-26-122. Renumbered
- R4-26-123. Renumbered
- R4-26-124. Renumbered
- R4-26-125. Renumbered
- R4-26-126. Renumbered
- R4-26-127. Renumbered
- R4-26-128. Renumbered
- R4-26-129. Reserved
- through
- R4-26-149. Reserved
- R4-26-150. Renumbered
- R4-26-151. Reserved
- R4-26-152. Reserved
- R4-26-153. Reserved
- R4-26-154. Reserved
- R4-26-155. Reserved
- R4-26-156. Reserved
- R4-26-157. Renumbered

**ARTICLE 2. LICENSURE**

## Section

- R4-26-201. Application Deadline
- R4-26-202. Doctorate
- R4-26-203. Application for Licensure
- R4-26-203.01 Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)
- R4-26-204. Examinations
- Appendix A. Repealed
- R4-26-205. Renewal of License
- R4-26-206. Reinstatement of License from Inactive to Active Status
- R4-26-207. Continuing Education

- R4-26-208. Time-frames for Processing Applications
- Table 1. Time-frames (in Days) for Processing Applications
- R4-26-209. General Supervision
- R4-26-210. Internship or Training Experience
- R4-26-211. Foreign Graduates

**ARTICLE 3. REGULATION**

## Section

- R4-26-301. Rules of Professional Conduct
- R4-26-302. Informal Interviews
- R4-26-303. Titles
- R4-26-304. Representation Before the Board by Attorney Not Admitted to State Bar of Arizona
- R4-26-305. Confidentiality of Investigative Materials
- R4-26-306. Reserved
- R4-26-307. Reserved
- R4-26-308. Rehearing or Review of Decision

**ARTICLE 4. BEHAVIOR ANALYSIS**

Article 4, consisting of Sections R4-26-401 through R4-26-418, made by final rulemaking effective September 11, 2012 (Supp. 12-3).

## Section

- R4-26-401. Definitions
- R4-26-402. Fees and Charges
- R4-26-403. Application for Initial License
- R4-26-404. License Examination
- R4-26-405. Coursework Requirement
- R4-26-406. Ethical Standard
- R4-26-407. License by Reciprocity
- R4-26-408. License Renewal
- R4-26-409. Continuing Education Requirement
- R4-26-410. Voluntary Inactive Status
- R4-26-411. License Reinstatement
- R4-26-412. Client Records
- R4-26-413. Change of Name, Mailing Address, E-mail Address, or Telephone Number
- R4-26-414. Complaints and Investigations
- R4-26-415. Informal Interview
- R4-26-416. Rehearing or Review of Decision
- R4-26-417. Licensing Time-frames
- R4-26-418. Mandatory Reporting Requirement

**ARTICLE 1. GENERAL PROVISIONS****R4-26-101. Definitions**

In this Chapter:

1. "Additional examination" means an examination administered by the Board to determine the competency of an applicant and may include questions about the applicant's knowledge and application of Arizona law, the practice of psychology, ethical conduct, and psychological assessment and treatment practices.



2. "Administrative completeness review" means the Board's process for determining that an applicant has provided all of the information and documents required by the Board to determine whether to grant a license to the applicant.
3. "Advertising" means the use of any communications media to disseminate information regarding the qualifications of a psychologist or to solicit clients for psychological services, whether or not the psychologist pays for the dissemination of the information. Methods of advertising include a published statement or announcement, directory listing, business card, personal resume, brochure, or any electronic communication conveying professional qualifications or promoting the use of the psychologist's professional services.
4. "Applicant" means an individual requesting licensure, renewal, or approval from the Board.
5. "Application packet" means the forms and documents the Board requires an applicant to submit to the Board.
6. "Case," in the context of R4-26-106(D), means a legal cause of action instituted before an administrative tribunal or in a judicial forum that relates to a psychologist's practice of psychology.
7. "Case conference" means a meeting that includes the discussion of a particular client or case that is related to the practice of psychology.
8. "Clarifying information" means information that a complainant or licensee wishes to convey to the Board and is intended to clarify what the complainant or licensee believes to be inaccurate assumptions or information stated by a Board member during case discussions before the Complaint Screening Committee or the full Board or during an informal interview.
9. "Client record" means "adequate records" as defined in A.R.S. § 32-2061(A)(2), "medical records" as defined in A.R.S. § 12-2291(5), and all records pertaining to assessment, evaluation, consultation, intervention, treatment, or the provision of psychological services in any form or by any medium.
10. "Complaint Screening Committee" means the committee of the Board established by A.R.S. § 32-2081(D) to initially review all complaints against licensees.
11. "Confidential record" means:
  - a. Minutes of an executive session of the Board;
  - b. A record that is classified as confidential by a statute or rule applicable to the Board;
  - c. An applicant's or licensee's college or university transcript if requested by a person other than the applicant or licensee;
  - d. All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, and any other information relating to a client's diagnosis, treatment, or personal or family life;
  - e. Home address, home telephone number, and e-mail address of an applicant or a licensee;
  - f. Test scores of an applicant or a licensee;
  - g. Date of birth of an applicant or a licensee; and
  - h. Social Security number of an applicant or a licensee.
12. "Credentialing agency" means the Association of State and Provincial Psychology Boards, the National Register of Health Service Providers in Psychology, and the American Board of Professional Psychology.
13. "Days" means calendar days.
14. "Diplomate" means a status bestowed on a person by the American Board of Professional Psychology after successful completion of the work and examinations required.
15. "Directly available," in the context of A.R.S. § 32-2071(D)(2), means immediately available in person, by telephone, or by electronic transmission.
16. "Dissertation" means a document prepared as part of a graduate doctoral program that includes, at a minimum, separate sections that:
  - a. Review the literature on the psychology topic being investigated, state each research question under investigation, and state each hypothesis investigated;
  - b. Describe the method or procedure used to investigate each research question or each hypothesis;
  - c. Describe and summarize the findings and results of the investigation;
  - d. Discuss the findings and compare them to the relevant literature presented in the literature review section; and
  - e. List the references used in the various sections of the dissertation, a majority of which are either journals of the American Psychological Association, Psychological Abstracts, or classified as a psychology subject by the Library of Congress.
17. "Fellow" means a status bestowed on a person by a psychology association or society.
18. "Gross negligence" means an extreme departure from the ordinary standard of care.
19. "Internship training program" means the supervised professional experience required in A.R.S. § 32-2071(D).
20. "National examination" means the Examination for Professional Practice in Psychology provided by the Association of State and Provincial Psychology Boards.
21. "Party" means the Board, an applicant, a licensee, or the state.
22. "Primarily psychological," in the context of A.R.S. § 32-2071(A)(6), means subject matter that covers the practice of psychology as defined in A.R.S. § 32-2061(A)(8).
23. "Psychometric testing" means measuring cognitive and emotional processes and learning.
24. "Raw test data" means information collected during a psychologist's assessment and evaluation.
25. "Residency" means the same as in A.R.S. § 32-2071(I), but does not include a domicile or hospital residency.
26. "Retired," as used in A.R.S. § 32-2073(E), means a psychologist has permanently stopped practicing psychology, as defined in A.R.S. § 32-2061(A)(8).
27. "Substantive review" means the Board's process for determining whether an applicant meets the requirements of A.R.S. § 32-2071 through § 32-2076 and this Chapter.
28. "Successfully completing," as used in A.R.S. § 32-2071(A)(4), means receiving a passing grade in a course from a school or institution.
29. "Supervise" means to control, oversee, and review the activities of an employee, intern, trainee, or resident who provides psychological services.
30. "Supervisor" means a psychologist licensed or certified as a psychologist in the state in which the supervision occurs.

#### Historical Note

Former Rule 1; Former Section R4-26-01 repealed, new Section R4-26-01 adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Former Section R4-26-101 renumbered to R4-26-102; new Section R4-26-101 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed dif-

ferent versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### **R4-26-102. Board Officers**

Under A.R.S. § 32-2063(A)(8), the Board shall meet before December 31 of each year to elect a chairperson, a vice chairperson, and a secretary who shall take office on January 1 of the next year and serve until December 31 of that year. When a vacancy occurs in the office of chairperson, vice chairperson, or secretary, the Board shall elect a replacement officer at the next scheduled Board meeting.

##### **Historical Note**

Former Rule 2; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-02 adopted effective July 27, 1979 (Supp. 79-4). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-102 renumbered to R4-26-103; new Section R4-26-102 renumbered from R4-26-101 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

#### **R4-26-103. Official Signatures**

The chairperson, vice chairperson, or secretary, elected under A.R.S. § 32-2063(A)(8), shall sign correspondence, forms, legal documents, or other official papers of the Board. The chairperson, vice chairperson, or secretary may delegate this duty to another Board member, or the executive director.

##### **Historical Note**

Former Rule 3; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-03 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-103 renumbered to R4-26-104; new Section R4-26-103 renumbered from R4-26-102 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

#### **R4-26-104. Advisory Committees**

The Board may appoint advisory committees for the purpose of conducting investigations and making recommendations to the Board concerning official actions to be taken or considered by the Board regarding the licensing process or disciplinary matters.

##### **Historical Note**

Former Rule 4; Former Section R4-26-04 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-04 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-04 repealed, new Section R4-26-04 adopted effective July 27, 1979 (Supp. 79-4).

Amended effective June 17, 1981 (Supp. 81-3). Correction, paragraph (2), subparagraph (f) as amended effective June 17, 1981 (Supp. 84-1). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-104 renumbered to R4-26-105; new Section R4-26-104 renumbered from R4-26-103 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3).

#### **R4-26-105. Board Records**

- A. A person may view public records in the Board office only during business hours Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding holidays.
- B. All Board records are open to public inspection and copying except confidential records as defined in R4-26-101.

##### **Historical Note**

Former Rule 5; Former Section R4-26-05 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-05 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed, new Section R4-26-05 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-105 renumbered to R4-26-107; new Section R4-26-105 renumbered from R4-26-104 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

#### **R4-26-106. Client Records**

- A. A psychologist shall not condition record release on a client's or third party's payment for services.
- B. A psychologist shall release, with a client's written consent, the client's raw test data or psychometric testing materials to another licensed psychologist. Without a client's consent, a psychologist shall release a client's raw test data or psychometric testing materials only to the extent required by federal or Arizona law or court order compelling production.
- C. A psychologist shall retain all client records under the psychologist's control, including records of a client who died, for a minimum of six years from the date of the last client activity, except copies of audio or video tapes created primarily for training or supervisory purposes. If a client is a minor, the psychologist shall retain all client records for a minimum of three years past the client's 18th birthday or six years from the date of the last client activity, whichever is longer.
- D. A psychologist who has been notified by the Board or municipal, state, or federal officials of an investigation or pending case shall retain all records relating to that investigation or case until the psychologist has received written notification that the investigation is completed or that the case is closed.
- E. A psychologist who is on inactive status under A.R.S. § 32-2073(E) is not exempt from this Section.
- F. A psychologist may retain legible copies of scanned or electronic records rather than the original hard copies of the records. The psychologist shall ensure that scanned and electronic records are securely stored and electronic backup copies are maintained.

##### **Historical Note**

Former Rule 6; Repealed effective November 22, 1977 (Supp. 77-6). New Section adopted effective March 3,

1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### **R4-26-107. Current Address**

A psychologist's failure to receive a renewal notice or other mail that the Board sends to the most recent address on file with the Board office is not justification for an untimely license renewal or the omission of any other action required by the psychologist.

##### **Historical Note**

Former Rule 7; Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-107 renumbered from R4-26-105 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

#### **R4-26-108. Fees**

1. Application for an active license to practice psychology: \$350
2. Reapplication for an active license denied by the Board: \$200
3. Initial license (prorated): \$400
4. Duplicate license: \$25
5. Biennial renewal of an active license: \$400
6. Biennial renewal of an inactive license: \$50
7. Reinstatement of an active or inactive license: \$200
8. Delinquent compliance with continuing education requirements: \$200
9. Duplicate renewal receipt: \$5
10. Statutes and rules: \$5
11. Verification of a license: \$2
12. Each audiotape of Board meetings: \$10
13. Computerized discs containing the name and address of each licensee: \$.05 per name
14. Customized computerized discs containing the name and address of each licensee: \$.25 per name
15. Customized computerized discs: \$.35 per name
16. Copies of Board records, documents, letters, minutes, applications, files, and policy statements: \$.25 per page

##### **Historical Note**

Former Rule 8; Amended as an emergency effective June 15, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-3). Amended effective September 15, 1978 (Supp. 78-5). Repealed effective July 27, 1979 (Supp. 79-4). New Section R4-26-108 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Former Section R4-26-108 renumbered to R4-26-201 by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). New Section adopted by final rulemaking at 7 A.A.R. 1258, effective February 20, 2001 (Supp. 01-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### **R4-26-109. Repealed**

##### **Historical Note**

Former Rule 9; Repealed effective July 27, 1979 (Supp. 79-4).

#### **R4-26-110. Repealed**

##### **Historical Note**

Adopted effective November 22, 1977 (Supp. 77-6). Repealed and readopted as Section R4-26-57 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-111. Reserved through**

#### **R4-26-119. Reserved**

#### **R4-26-120. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-121. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-202 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-122. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-203 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-123. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-204 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-124. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-205 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-125. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-206 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-126. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-207 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-127. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-208 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-128. Renumbered**

##### **Historical Note**

Former Section R4-26-120 renumbered to R4-26-209 effective July 27, 1979 (Supp. 79-4).

#### **R4-26-129. Reserved through**

#### **R4-26-149. Reserved**

**R4-26-150. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-301 effective July 27, 1979 (Supp. 79-4).

**R4-26-151. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-302 effective July 27, 1979 (Supp. 79-4).

**R4-26-152. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-303 effective July 27, 1979 (Supp. 79-4).

**R4-26-153. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-304 effective July 27, 1979 (Supp. 79-4).

**R4-26-154. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-305 effective July 27, 1979 (Supp. 79-4).

**R4-26-155. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-306 effective July 27, 1979 (Supp. 79-4).

**R4-26-156. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-307 effective July 27, 1979 (Supp. 79-4).

**R4-26-157. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

**ARTICLE 2. LICENSURE****R4-26-201. Application Deadline**

To be considered at the next scheduled Board meeting, a license application and all related supporting materials and documentation, including reference forms mailed from the Board office and any additional information requested by the Board, shall be completed and filed at the Board office at least 14 days before the date of the meeting. An applicant who does not meet this deadline shall have the application reviewed at a subsequent Board meeting.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended subsection (A) statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-120 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). New Section R4-26-201 renumbered from R4-26-108 and amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1).

**R4-26-202. Doctorate**

A. The Board shall apply the following criteria to determine if a doctoral program complies with A.R.S. § 32-2071:

1. A program is “identified and labeled as a psychology program” under A.R.S. § 32-2071(A)(2) if the university, college, department, school, or institute had institutional catalogues and brochures that specified its intent to educate and train psychologists, at the commencement of the applicant’s degree program;
  2. A program “stands as a recognized, coherent organizational entity” under A.R.S. § 32-2071(A)(2) if the university, college, department, school, or institute had a psychology curriculum that was an organized sequence of courses at the commencement of the applicant’s degree program; and
  3. A program has “clearly identified entry and exit criteria” within its curriculum under A.R.S. § 32-2071(A)(2) if the university, college, department, school, or institute has requirements that outline the prerequisites for entrance into the program and the sequence of study and has requirements for graduation delineated.
- B. The Board shall verify that an applicant has completed the hours in the subject areas described in A.R.S. § 32-2071(A)(4). For this purpose, the applicant shall have the institution that the applicant attended provide directly to the Board an official transcript of all courses taken.
1. The Board shall verify that an applicant’s transcripts have been prepared solely by the institution under A.R.S. § 32-2071(A)(7) by determining whether the applicant had any input into the transcript drafting process.
  2. The Board may require additional documentation from the applicant or from the institution to determine whether the applicant has satisfied the requirements of A.R.S. § 32-2071(A)(4).
  3. The Board shall count five quarter hours as the equivalent of three semester hours, as required under A.R.S. § 32-2071(A)(4). When an academic term is other than a semester or quarter, 15 classroom contact hours equals one semester hour.
- C. To determine whether a comprehensive examination taken by an applicant as part of a doctoral program in psychology satisfies the requirements of A.R.S. § 32-2071(A)(4), the Board shall review documentation provided directly to the Board by the educational institution that granted the doctoral degree, that demonstrates how the applicant’s comprehensive examination was constructed, lists criteria for passing, and provides the information used to determine that the applicant passed.
- D. The Board shall not accept credit hours for workshops, practica, undergraduate courses, life experiences, or for credits transferred from institutions that are not accredited under A.R.S. § 32-2071(A)(1), to satisfy a requirement of A.R.S. § 32-2071(A)(4).
- E. The Board shall count a course or comprehensive examination only once to satisfy a requirement of A.R.S. § 32-2071(A)(4).
- F. An honorary doctorate degree does not qualify an applicant for licensure as a psychologist.
- G. The Board shall not accept as core program credits practica, workshops, continuing education courses, experiential or correspondence courses, or life experiences. The Board shall not accept core program credits for seminar or readings courses or independent study unless the applicant provides evidence that the course was an in-depth study devoted to a particular core area. The applicant shall submit evidence of one or more of the following:
1. Course description in official college catalogue,
  2. Course syllabus, or
  3. Signed statement from a dean or psychology department head detailing that the course was an in-depth study devoted to a particular core area.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-121 and amended effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1).

**R4-26-203. Application for Licensure**

**A.** An applicant for a psychologist license shall submit an application packet to the Board that includes an application form provided by the Board that is signed and dated by the applicant and notarized and contains the following information:

1. Applicant's name, business and home addresses, Social Security number, business and home telephone numbers, and date and place of birth;
2. Whether the applicant holds a Certificate of Professional Qualification in Psychology, a National Register of Health Service Providers in Psychology credential, or is a diplomate of the American Board of Professional Psychology;
3. Name of each jurisdiction in which the applicant is currently or has been licensed as a psychologist;
4. Whether the applicant has applied for licensure as a psychologist in any other jurisdiction in which the applicant is not currently licensed, and if so, the date of each application;
5. Whether the applicant is licensed or certified in a profession or occupation other than psychology;
6. Whether the applicant has ever taken the national examination, name of each jurisdiction in which taken, and each date of examination;
7. Whether the applicant has ever had an application for a professional license, certification, or registration denied or rejected by any jurisdiction;
8. Whether the applicant has ever had disciplinary action initiated against the applicant's professional license, certification, or registration, or had a professional license, certification, or registration suspended or revoked by any jurisdiction;
9. Whether the applicant has ever entered into a consent agreement or stipulation arising from a complaint against any professional license, certification, or registration;
10. Whether the applicant is a member of any professional association in the field of psychology and name of association;
11. Whether the applicant has ever had membership in a professional association in the field of psychology denied or revoked;
12. Whether the applicant is currently under investigation for or has been found guilty of violating a code of professional ethics of any professional organization;
13. Whether the applicant is currently under investigation for or has been found to have violated a professional code of conduct by any jurisdiction;
14. Whether the applicant has ever been sanctioned or placed on probation by any jurisdiction;
15. Whether the applicant has been convicted of a felony or a misdemeanor other than a minor traffic offense, or has ever entered into a diversion program instead of prosecution, including any convictions that have been expunged or deleted;
16. Whether the applicant has been sued or prosecuted for an act or omission relating to the applicant's practice as a psychologist, the applicant's work under a certificate or license in another profession, or the applicant's work as a member of a profession in which the applicant was not certified or licensed;
17. Whether the applicant has ever been involuntarily terminated or resigned instead of termination from any psychological or behavioral health position or related employment;
18. Whether the applicant currently has an addiction to alcohol or any drug that in any way impairs or limits the applicant's ability to practice;
19. Whether the applicant currently has any medical, physical, or psychological condition that may in any way impair or limit the applicant's ability to practice psychology safely and effectively;
20. Name and address of each university or college from which the applicant graduated, date of attendance, date of graduation, degree received, name of department, and major subject area;
21. Major advisor's name and department and the title of the applicant's dissertation or Psy.D. project for the doctoral degree;
22. Official title of the doctoral degree program or predoctoral specialty area;
23. Whether the applicant's internship training program was an American Psychological Association-approved program or a member of the Association of Psychology and Postdoctoral Internship Centers;
24. Each location at which the applicant participated in an internship training program and each supervisor's name;
25. Areas of professional competence;
26. Intended area of professional practice in psychology;
27. Name, position, and address of at least two references who:
  - a. Are psychologists licensed or certified to practice psychology in a United States or Canadian jurisdiction and who are not members of the Arizona Board of Psychologist Examiners;
  - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within the three years immediately before the date of application. If more than three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may pertain to the most recent three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
  - c. Recommend the applicant for licensure;
28. History of employment in the field of psychology including the beginning and ending dates of employment, number of hours worked per week, name and address of employer, name and address of supervisor, and type of employment;
29. Information demonstrating that the applicant satisfied the core program requirements in A.R.S. § 32-2071(A)(4) and R4-26-202;
30. Whether the applicant agrees to allow the Board to submit supplemental requests for additional information under R4-26-208(C);
31. A notarized statement, verified under oath by the applicant, that the information on the application pertains to

the applicant, is true and correct, and has not been submitted through fraud or misrepresentation;

32. One photograph of the applicant no larger than one and a half by two inches taken not more than 60 days before the date of application;
33. The results of a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank;
34. Fee required by R4-26-108; and
35. Any other information authorized by statute.

**B.** In addition to the requirements of subsection (A), an applicant for a psychologist's license shall arrange to have directly submitted to the Board:

1. An official transcript from each university or college from which the applicant has received a graduate degree that contains the date the degree was received;
2. An official document from the degree-granting institution indicating that the applicant has completed a residency that satisfies the requirements of A.R.S. § 32-2071(I);
3. An affidavit from the applicant's supervisor, if available, or a psychologist knowledgeable of the applicant's internship training program, verifying that the applicant's internship training program meets the requirements in A.R.S. § 32-2071(D);
4. An affidavit from the applicant's postdoctoral supervisor, if available, or a psychologist knowledgeable of the applicant's postdoctoral experience verifying that the applicant's postdoctoral experience meets the requirements in A.R.S. § 32-2071(E); and
5. Verification of all other psychology licenses or certificates ever held in any jurisdiction.

**C.** In addition to the requirements in subsections (A) and (B), an applicant shall ensure that an official notification of the applicant's score on the national examination is provided to the Board. An applicant who has passed the national examination and is seeking an examination waiver under A.R.S. § 32-2072(A) shall have the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction for which the applicant originally passed the examination.

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective April 25, 1980 (Supp. 80-2). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-122 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-203 repealed, new Section R4-26-203 renumbered from R4-26-204 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

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

**A.** An applicant for a psychologist license by credential under A.R.S. § 32-2071.01(B) shall submit an application packet to the Board that includes:

1. An application form, provided by the Board, signed and dated by the applicant, that contains the information required by R4-26-203(A)(1) through (26), and R4-26-203(A)(30) through (35);
2. Verification sent directly to the Board by the credentialing agency that the applicant:
  - a. Holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards;
  - b. Holds a current National Register Health Service Provider in Psychology (NRHSP) credential at the doctoral level under A.R.S. § 32-2071; or
  - c. Is a diplomate of the American Board of Professional Psychology (ABPP); and
3. Verification of all other psychology licenses or certificates ever held in any jurisdiction.

**B.** An applicant for a psychologist license by credential based on a National Register Health Service Provider in Psychology credential also shall have passed the national examination and shall have notification of the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction for which the applicant originally tested.

**C.** If the Board determines that an application for licensure by credential requires clarification, the Board may require that an applicant submit or cause the applicant's credentialing agency to submit directly to the Board any documentation including transcripts, course descriptions, catalogues, brochures, supervised experience verifications, examination scores, application for credential, or any other information that is deemed necessary by the Board.

#### Historical Note

New Section made by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### **R4-26-204. Examinations**

**A.** General rules.

1. Under A.R.S. § 32-2072(C), an applicant who fails the national examination at least three times in Arizona or any other jurisdiction, shall comply with the following requirements before taking another national examination:
  - a. The applicant shall review the areas of deficiency and implement a program of study or practical experience designed to remedy the applicant's deficiencies. This remedial program may consist of course work, self-study, internship experience, supervision, or any combination of these.
  - b. The applicant shall submit a new application that includes documentation of the applicant's professional activities since the date of the original application, including any actions taken under subsection (A)(1)(a), in addition to the information required on the original application.
2. Examination deadline. Unless the Board grants an extension, the Board shall close the file of an applicant approved to sit for a Board examination who fails to sit for the examination within one year from the date of the Board's approval. Upon written request to the Board's Executive Director received by the Board on or before the applicant's examination deadline, the Board shall grant the applicant one extension of up to six months to sit for the examination. This Section does not apply to an applicant approved to take the national examination before

completion of 3,000 hours of supervised training experience as permitted under A.R.S. § 32-2072(C).

3. The Board shall deny a license if an applicant commits any of the following acts:
  - a. Violates the confidentiality of examination materials;
  - b. Removes any examination materials from the examination room;
  - c. Reproduces any portion of a licensing examination;
  - d. Aids in the reproduction or reconstruction of any portion of a licensing examination;
  - e. Pays or uses another person to take a licensing examination for the applicant or to reconstruct any portion of the licensing examination;
  - f. Obtains examination material, either before, during, or after an examination, for the purpose of instructing or preparing applicants for examinations;
  - g. Sells, distributes, buys, receives, or has possession of any portion of a future, current, or previously administered licensing examination that is not authorized by the Board or its authorized agent for release to the public;
  - h. Communicates with any other examinee during the administration of a licensing examination;
  - i. Copies answers from another examinee or permits the copying of answers by another examinee;
  - j. Possesses during the administration of a licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than material distributed during the examination; or
  - k. Impersonates another examinee.
- B. National examination. Under A.R.S. § 32-2072, the Board shall require that an applicant take and pass the national examination. An applicant approved by the Board to take the national examination passes the examination if the applicant's score equals or exceeds the passing score specified in A.R.S. § 32-2072(A). When the Board receives the examination results, the Board shall notify the applicant in writing of the results.
- C. Additional examination.
  1. An applicant shall pass the national examination before being permitted by the Board to take an additional examination.
  2. Under A.R.S. § 32-2072(B), the Board may administer an additional examination to all applicants to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
    - a. The Board shall review and approve the additional examination before administration. The additional examination may be developed by the Board, a committee of the Board, consultants to the Board, or independent contractors.
    - b. The additional examination may be administered by the Board, a committee of the Board, consultants to the Board, or independent contractors.
    - c. Applicants, examiners, and consultants to the Board shall execute a security acknowledgment form stating that they shall maintain examination security.

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-123 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-204 renumbered to R4-26-203, new Section R4-26-204 renumbered from R4-26-205 and

amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### Appendix A. Repealed

##### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Renumbered from R4-26-205, Appendix A (Supp. 95-1). Appendix repealed by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1).

#### R4-26-205. Renewal of License

- A. The Board considers a license renewal application timely filed if delivered or mailed to the Board's office and date stamped or postmarked before May 1 of the year that the license expires.
- B. An applicant shall file with the Board a renewal application form provided by the Board, signed and dated by the licensee, that contains:
  1. The applicant's name, business and home addresses, Social Security number, license number, business and home telephone numbers, e-mail address, gender, date of birth, and a designated preference for directory and mailing addresses;
  2. Whether the applicant is currently licensed or certified as a psychologist in another jurisdiction, and if so, identification of the jurisdiction;
  3. Whether the applicant is currently a licensed or certified member of another profession, and if so, identification of the profession and the jurisdiction;
  4. Whether the applicant is a member of any hospital staff or provider panel and if so, identification of the hospital or panel;
  5. Whether the applicant has completed the required 60 hours of continuing education, and if not, an explanation of the reasons;
  6. Whether the applicant has been denied a license or certificate to practice any profession by any state or Canadian province;
  7. Whether the applicant has ever relinquished responsibilities, resigned a position, or been terminated while a complaint against the applicant was being investigated or adjudicated;
  8. Whether the applicant has ever resigned or been terminated from a professional organization, hospital staff, or provider panel or surrendered a license while a complaint against the applicant was being investigated or adjudicated;
  9. Whether the applicant has been disciplined by any agency or regulatory board of any jurisdiction, health care institution, provider panel, or ethics panel for acts pertaining to the applicant's conduct as a psychologist or as a professional in any other field, and if so, a report of those

actions including the name and address of the disciplinary agency, the nature of the action, and a statement of the charges and findings;

10. Whether the applicant has been convicted of a felony or a misdemeanor other than a minor traffic offense in any state or country;
  11. Whether the applicant is currently under investigation by any professional organization, health care institution, or provider panel of which the applicant is a member or on staff, or regulatory board or agency concerning the ethical propriety or legality of the applicant's conduct;
  12. Whether the applicant has been sued or prosecuted for an act or omission relating to the applicant's practice as a psychologist, the applicant's work under a license or certificate in another profession, or the applicant's work as a member of a profession in which the applicant was not licensed or certified;
  13. Whether the applicant is delinquent in payment of a judgment for child support;
  14. Whether the applicant has had an application for membership in any professional organization rejected, or has had any professional organization suspend or revoke the applicant's membership, place the applicant on probation, or otherwise censure the applicant for unethical or unprofessional conduct or other violation of eligibility or membership requirements;
  15. Whether the applicant has a condition that in any way impairs or limits the applicant's ability to safely and effectively practice psychology;
  16. Whether the applicant is requesting any of the following inactive status options:
    - a. Mental or physical disability,
    - b. Voluntary inactive status, or
    - c. Medical or inactive continuation;
  17. Whether the applicant is requesting retired status;
  18. Whether the applicant has prepared a written protocol for the secure storage, transfer, and access of the medical records of the psychologist's patients, in accordance with the provisions of A.R.S. § 32-3211;
  19. A signed attestation of the veracity of the information provided; and
  20. Any other information authorized by statute.
- C. If A licensee applies for renewal in a timely manner, but fails to complete the required 60 hours of continuing education, the license shall expire. A licensee may reinstate the expired license and continue practicing between May 1 and July 1 by:
1. Paying by July 1 the reinstatement fee in R4-26-108, in addition to the regular renewal fee under A.R.S. § 32-2074(B); and
  2. Completing the continuing education requirements by July 1 of the same year.
- D. A person who fails to complete the required 60 hours of continuing education by July 1 and reinstate a license under subsection (C):
- a. Shall not practice psychology until the license is reinstated;
  - b. Has from July 1 of the renewal year to May 1 of the next year to complete the continuing education requirements; and
  - c. Shall pay the reinstatement fee and the delinquent compliance fee in R4-26-108.
- E. If as a result of an audit of continuing education records, the Board disallows some or all of a licensee's credit hours for failure to conform to the standards listed in R4-26-207, and the remaining hours are less than the number required, the Board shall deem the licensee as failing to satisfy the continuing edu-

cation requirements. The licensee has 90 days from the mailing date of the Board's notification of disallowance to complete the continuing education requirements for the past reporting period and shall provide the Board with an affidavit documenting completion. If the Board does not receive an affidavit within 90 days of the mailing date of notification of disallowance or the Board deems the affidavit insufficient, the Board may take disciplinary action under A.R.S. § 32-2081.

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-205 renumbered to R4-26-204; new Section R4-26-205 renumbered from R4-26-206 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

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

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

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-125 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-206 renumbered to R4-26-205; new Section R4-26-206 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2007, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).



**R4-26-207. Continuing Education**

- A.** A licensee shall complete a minimum of 60 hours of continuing education during each two-year license renewal period. One clock hour of instruction, training, preparation of a published book or journal article, or making a presentation equals one hour of continuing education credit.
1. Continuing education hours are prorated from the date of the Board correspondence notifying an applicant of approval for licensure. To calculate the minimum number of continuing education hours that a new licensee must obtain, the Board shall divide the 60 hours of continuing education required by 24 and multiply that amount by the number of months that remain until the next biennial renewal date.
  2. The Board uses the same method specified in subsection (A)(1) to calculate the minimum number of continuing education hours required in each of the categories listed in subsection (C).
- B.** A licensee shall obtain a minimum of eight of the 40 hours required under Category I in subsection (C) as follows:
1. At least four hours in professional ethics; and
  2. Beginning May 1, 2005, at least four hours in domestic violence or child abuse;
- C.** During the two-year license period, a licensee shall obtain a minimum of 40 hours from Category I. The remaining 20 required continuing education hours may be from Category I or Category II.
1. Category I consists of:
    - a. Post-doctoral study sponsored by a regionally accredited university or college as listed in A.R.S. § 32-2071(A)(1), that provides a graduate-level degree program, or a course, seminar, workshop, or home study with certificate of completion, or a continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider, if:
      - i. At least 75 percent of the program is related to the "practice of psychology" as defined in A.R.S. § 32-2061(A)(8); and
      - ii. The program's instructor meets the qualifications in subsection (D);
    - b. Attending a Board meeting. A licensee receives four continuing education hours in professional ethics as required under subsection (B)(1) for attending eight hours or more of a Board meeting and two continuing education hours for attending between four and eight hours of a Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting. The Board shall not accept more than 10 continuing education hours obtained by attending a Board meeting from a licensee for each renewal period; and
    - c. Serving as a complaint consultant. A licensee who serves as a Board complaint consultant to review Board complaints and provide a written report to the Board, receives continuing education hours equal to the actual number of hours served as a complaint consultant up to a maximum of 20 hours per renewal period.
  2. Category II consists of:
    - a. Self-study or study groups for professional growth and development as a psychologist;
    - b. Preparation that results in publication of an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal;
    - c. Presentation of a symposium or paper at a state, regional, national, or international psychology meeting;
    - d. Attendance at or participation in a case conference; or
    - e. A course, workshop, seminar, or symposium for professional growth and development as a psychologist or enhancement of psychological practice, education, or administration.
- D.** The Board shall not approve continuing education for credit unless the continuing education instructor:
1. Is currently licensed or certified in the instructor's profession or works at least 20 hours each week as a faculty member at a regionally accredited college or university, as listed in A.R.S. § 32-2071(A);
  2. Is a fellow as defined in R4-26-101 or a diplomate as defined in R4-26-101; or
  3. Demonstrates competence and expertise in the subject or material the instructor teaches by having an advanced degree, teaching experience, work history, authored professional publication articles, or having previously presented seminars in that subject or material.
- E.** A licensee who organizes and presents a continuing education activity receives the same number and category of continuing education hours described in subsection (C) as those persons attending the continuing education activity. The Board shall not allow credit more than once in a two-year license renewal period for organizing and presenting a continuing education function on the same topic or content area.
- F.** A licensee elected to an officer position in an international, national, regional, or state psychological association or society, or appointed to a government psychology board or committee, receives Category I continuing education hours equal to the actual number of hours served in the position up to a maximum of 10 hours per renewal period.
- G.** Each licensee shall keep the following documents that substantiate completion of continuing education hours for the previous license renewal period:
1. A certificate of attendance;
  2. Statement signed by the provider verifying participation in the activity;
  3. Official transcript;
  4. Documents indicating a licensee's participation as an elected officer or appointed member as specified in subsection (F); or
  5. A signed affidavit to document self-study activity that includes a description of the activity, the subject covered, the dates, and the number of hours involved.
- H.** The Board may audit a licensee's compliance with continuing education requirements. The Board may deny renewal or take other disciplinary action against a licensee who fails to obtain or document required continuing education hours. The Board may discipline a licensee who commits fraud, deceit, or misrepresentation regarding continuing education hours.
- I.** A licensee who cannot meet the continuing education requirement for good cause may seek an extension of time to complete the continuing education requirement by submitting a written request to the Board, including the renewal fee.
1. Good cause is limited to licensee illness, military service, or residence in a foreign country for at least 12 months of the license renewal period.
  2. A licensee shall submit a request for extension on or before the expiration of a license. The Board shall not grant a time extension longer than one year.
  3. A licensee who cannot complete the continuing education requirement within the time extension may apply to the

## Board of Psychologist Examiners

Board for inactive license status under A.R.S. § 32-2073(E).

- J. The Board shall not allow continuing education hours in excess of the 60 required hours to be carried beyond the two-year renewal period in which the hours were accrued.
- K. A course, workshop, seminar, or symposium designed to increase income or office efficiency is not eligible for continuing education hours.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-126 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-207 repealed; new Section R4-26-207 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995. Text corrected. (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4).

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

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. An applicant and the Board's Executive Director may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension shall not exceed 25 percent of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is listed in Table 1.
  - 1. The administrative completeness review time-frame begins, for approval or denial of:
    - a. An application to take the national examination, on the date the Board receives an application packet and ends on the date the Board sends an applicant a written notice of administrative completeness;
    - b. An application for licensure from an applicant licensed in another jurisdiction who is applying for an examination waiver under A.R.S. § 32-2072(A), on the date the Board receives an application packet and ends on the date the Board sends an applicant a written notice of administrative completeness;
    - c. An application for licensure by credential, on the date the Board receives an application packet and ends on the date the Board sends a notice of administrative completeness and if the application does not require substantive review, a request for payment of licensing fee;
    - d. An application to take an additional examination, on the date the Board receives an application packet for the additional examination, and ends on the date the Board sends an applicant a written notice of administrative completeness;
    - e. A license renewal application, on the date the Board receives a renewal application packet and ends on the date the Board sends an applicant a written renewal receipt;
    - f. A request for reinstatement of an expired license, on the date the Board receives the request for reinstatement and ends on the date the Board sends an applicant a written renewal receipt; and

- g. A request for an extension in which to complete continuing education requirements, on the date the Board receives a request for extension, and ends on the date the Board sends an applicant written notice of completeness of the request.
- 2. If an application packet is incomplete, the Board shall send an applicant a written notice specifying the deficiencies. The administrative completeness review time-frame and the overall time-frame are suspended from the date of mailing this notice until the date the Board receives a complete application packet from the applicant. An applicant shall supply the missing information within the time specified in Table 1 from the date of the notice. If the applicant fails to do so, the Board may close the file unless the applicant requests a denial of the application within 30 days from the date of the notice.
- 3. If a renewal application is incomplete, the Board shall send an applicant a written notice specifying deficiencies. The administrative completeness time-frame and the overall time-frame are suspended from the date of mailing this notice until the date that the Board receives a complete application packet from the applicant.
- 4. When an application packet is complete, the Board shall send a written notice of administrative completeness to an applicant.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1.
  - 1. The substantive review time-frame begins for approval or denial of:
    - a. An application to take the national examination, on the date the Board sends an applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the national examination;
    - b. An application for licensure from an applicant licensed in another jurisdiction, who is applying for an examination waiver under A.R.S. § 32-2072(A), on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;
    - c. An application for licensure by credential that requires substantive review, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;
    - d. An application to take an additional examination, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the additional examination;
    - e. An application for license renewal that is deficient under subsection (B)(3), on the date an applicant submits the missing information, and ends on the date the Board approves or denies the renewal application;
    - f. A request for reinstatement of an expired license, on the date the Board sends written notice of administrative completeness and ends on the date the Board approves or denies the request; and
    - g. A request for an extension in which to complete continuing education requirements, on the date the Board office sends an applicant written notice of

- completeness and ends on the date the Board approves or denies the request.
2. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The Board and an applicant may mutually agree in writing to allow the Board to submit supplemental requests for additional information. If the Board issues a comprehensive written request or a supplemental request for additional information by mutual written agreement, the time-frame for the Board to complete the substantive review is suspended from the date of mailing the request until the Board receives the additional information or documentation.
- D.** The Board shall close the file of an applicant who is approved to sit for the national examination before completion of 3,000 hours of supervised training experience and who fails to document:
1. Completion of the national examination, or
  2. The minimum required amount of training within the time from the date of the Board's approval to the date of the expiration of the time-frame specified under R4-26-210(B).
- E.** An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.
- F.** The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. §§ 32-2071 through 32-2076, as applicable.
- G.** The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-2071 through 32-2076, as applicable.
- H.** The Board shall send a renewal receipt to an applicant who meets the requirements of A.R.S. § 32-2074 and R4-26-205.
- I.** The Board shall send a written notice of expiration of license to an applicant who fails to meet the requirements of A.R.S. § 32-2074 and R4-26-207. The notice of expiration is fully effective upon mailing to the applicant's last address of record in the Board's file.
- J.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the time-frame ends on the next business day.

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Amended effective July 3, 1984 (Supp. 84-4). Amended effective February 24, 1988 (Supp. 88-1). Renumbered from R4-26-127 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-208 repealed; new Section R4-26-208 amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

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

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

## Board of Psychologist Examiners

Approval or denial of application for reinstatement of expired license	A.R.S. § 32-2074; A.A.C. R4-26-206	60	N/A	90	N/A	150
Approval or denial of extension for continuing education requirement	A.R.S. § 32-2074 A.A.C. R4-26-207	60	N/A	90	N/A	150

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

**R4-26-209. General Supervision**

Under A.R.S. § 32-2071, a supervising psychologist shall not supervise a member of the psychologist's immediate family, an individual with whom the psychologist has any substantial financial interest as defined by A.R.S. § 38-502(11), or the psychologist's employer.

**Historical Note**

Adopted effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-128 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-209 renumbered to R4-26-208; new Section R4-26-209 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

**R4-26-210. Internship or Training Experience**

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

1. That the written statement required in A.R.S. § 32-2071(D)(9) corresponds to the training program that the applicant completed;
2. That a supervisor was available to the person being supervised when decisions were made regarding emergency psychological services provided to a client as required in A.R.S. § 32-2071(D)(2);
3. That course work used to satisfy the requirements of A.R.S. § 32-2071(A) or dissertation time is not credited toward the time required by A.R.S. § 32-2071(D)(6);
4. That the two hours a week of other learning activities required in A.R.S. § 32-2071(D)(6) includes one or more of the following:
  - a. Case conferences involving a case in which the trainee was actively involved,
  - b. Seminars involving clinical issues,
  - c. Co-therapy with a professional staff person including discussion,
  - d. Group supervision, or
  - e. Additional individual supervision;
5. That a training program had the trainee work with other doctoral level psychology trainees and included in the written statement required in A.R.S. § 32-2071(D)(9) a description of the program policy specifying the opportunities and resources provided to the trainee for working or interacting with other doctoral level psychology trainees in the same or other sites;

6. That time spent fulfilling academic degree requirements such as course work applied to the doctoral degree, practicum, field laboratory, dissertation, or thesis credit is not credited toward the 1,500 hours of professional experience hours required by A.R.S. § 32-2071(D). This rule does not restrict a student from participating in activities designed to fulfill other doctoral degree requirements; however, the Board shall not credit such time toward the hours required by A.R.S. § 32-2071(D); and

7. That to satisfy the first 1,500 hours required by A.R.S. § 32-2071(D), the written statement required under A.R.S. § 32-2071(D)(9) was established by the time the student began training. The Board shall not accept experience or credit for the past activities as a training program or a pre-doctoral internship.

**B.** Training deadlines. Under A.R.S. § 32-2072(C), an applicant approved to take the national examination before completion of the applicant's entire 3,000 hours of supervised training experience shall complete the remaining training required within the following time-frames:

1. 36 consecutive months for an applicant who has only completed the first 1,500 hours of supervised internship training; or
2. 60 consecutive months for an applicant who has completed neither the first 1,500 hours of supervised internship training nor the second 1,500 hours of supervised postdoctoral training.

**Historical Note**

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

**R4-26-211. Foreign Graduates**

**A.** Under A.R.S. § 32-2071(B), an applicant for licensure whose application is based on graduation from a foreign institution of higher education shall provide the Board with documents and evidence to establish that the applicant's formal education is equivalent to a doctoral degree in psychology from a regionally accredited institution as described in A.R.S. § 32-2071(A).

**B.** An applicant shall provide the following information to the Board:

1. An original and a copy of the doctoral diploma or certificate of graduation. The original shall be returned, and the copy shall be retained by the Board;
2. An official transcript or comparable document recording all course work completed, containing an original university seal;
3. A certified English translation of all documents submitted;
4. Evidence of completion of the requirements of A.R.S. § 32-2071(C), (D), and (E); and
5. Evidence that the doctoral dissertation or project was primarily psychological. The Board may require the applicant to submit the doctoral dissertation or project.

#### Historical Note

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4).

### ARTICLE 3. REGULATION

#### R4-26-301. Rules of Professional Conduct

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

#### Historical Note

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981. Amended effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-150 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### R4-26-302. Informal Interviews

- A. The Board shall, when investigating a complaint, send written notice of an informal interview to a licensee who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview.
- B. The written notice shall contain:
  1. The time, date, place of the interview;
  2. An explanation of the informal nature of the proceedings;
  3. The licensee's right to appear with or without legal counsel;
  4. A statement of the allegations and issues involved;
  5. The licensee's right to a formal hearing instead of the informal interview; and
  6. Notice that the Board may take disciplinary action as a result of the deliberations of the informal interview;

#### C. An informal interview shall proceed as follows:

1. Introduction of the licensee and, if applicable, legal counsel for the licensee;
2. Introduction of the Board members, staff, and Assistant Attorney General present;
3. Swearing in of the licensee;
4. Brief summary of the allegations and purpose of the informal interview;
5. Optional opening comments by licensee;
6. Interviewing of the licensee;
7. Swearing in of the complainant, if complainant is present and wishes to speak;
8. Optional additional comments by licensee;
9. If desired by the licensee, questioning of the complainant by the licensee through the Board Chairperson; and
10. Deliberation and deciding the case by the Board.
  - a. The Board Chairperson shall decide whether to allow clarifying information as defined in R4-26-101 during deliberations.
  - b. The Board Chairperson may reopen and repeat the steps in subsections (C)(6) through (8) if the clarifying information suggests a need for further questioning of the licensee.

#### Historical Note

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### R4-26-303. Titles

A person shall not use a designation that claims a potential or future degree or qualification such as "Ph.D. (Cand)," "Ph.D. (ABD)," "License Eligible," "Candidate for Licensure," or "Board Eligible." The use of a title that claims a potential or future degree or qualification is a violation of A.R.S. § 32-2061 et seq.

#### Historical Note

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3).

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

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

#### Historical Note

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

#### R4-26-305. Confidentiality of Investigative Materials

- A. A psychologist shall not disclose confidential records as defined by R4-26-101 that are related to a Board investigation to any person or entity, other than the psychologist's attorney, except:
  1. For redacted summaries that ensure the anonymity of the client;
  2. Information regarding the nature of a complaint, the processes utilized by the Board, and the outcomes of a case;
  3. As required by federal or Arizona law;
  4. As required by a court order compelling production; or

5. If disclosure is protected under the United States or Arizona Constitutions.
- B.** A psychologist who violates this Section commits an act of unprofessional conduct.

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

**R4-26-306. Renumbered****Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-307. Renumbered****Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-308. Rehearing or Review of Decision**

- A.** Except as provided in subsection (G), any party in a contested case or appealable agency action before the Board who is aggrieved by a Board order or decision rendered in the case may file with the Board, not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for rehearing or review. For purposes of this subsection, service is complete on personal service or five days after the date that a Board order or decision is mailed to the party's last known address.
- B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A party may file a response within 15 days after service of the motion or amended motion by any other party. The Board may require written briefs upon the issues raised in the motion and may provide for oral argument. A party who files pleadings or other documents with the Board shall file an original and 11 three-hole punched copies.
- C.** The Board may grant rehearing or review of a Board order or decision for any of the following causes materially affecting the moving party's rights:
1. An irregularity in the administrative proceedings of the agency, its hearing officer, or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
  2. Misconduct of the Board, its hearing officer, or the prevailing party;
  3. An accident or surprise that could not be prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence be discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. An error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the case; or
  7. A Board order or decision that is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify a Board order or decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.
- E.** Not later than 30 days after a Board order or decision is rendered, the Board may on its own initiative order a rehearing or

review of its order or decision for any reason specified in subsection (C). After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion.

- F.** When a motion for rehearing or review is based upon affidavits, the party shall serve the affidavits with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board for good cause or by written agreement of all parties may extend for not more than 20 days the period for service of opposing affidavits. Reply affidavits are permitted.
- G.** If the Board finds that the immediate effectiveness of a Board order or decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the Board order or decision is impracticable, unnecessary, or contrary to the public interest, the Board order or decision may be issued as a final order or decision without an opportunity for a rehearing or review. If a Board order or decision is issued as a final order or decision without an opportunity for rehearing or review, any application for judicial review of the order or decision shall be made within the time permitted for final orders or decisions.
- H.** For purposes of this Section, "contested case" is defined in A.R.S. § 41-1001 and "appealable agency action" is defined in A.R.S. § 41-1092.

**Historical Note**

Former Section R4-26-10 renumbered and adopted as R4-26-57 effective July 27, 1979 (Supp. 79-4). Amended subsection (c)(4) effective June 30, 1981 (Supp. 81-3).

Renumbered from R4-26-157 effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4).

**ARTICLE 4. BEHAVIOR ANALYSIS****R4-26-401. Definitions**

- A.** The definitions in A.R.S. § 32-2091 apply in this Article.
- B.** Additionally, in this Article:
1. "Advertising" means any media used to disseminate information regarding the qualifications of a behavior analyst in order to solicit clients for behavior analysis services, regardless of whether the behavior analyst pays for the advertising.
  2. "Applicant" means an individual who applies to the Board for an initial or renewal license.
  3. "BACB" means the Behavior Analyst Certification Board.
  4. "Confidential information" means:
    - a. Minutes of an executive session of the Board except as provided under A.R.S. § 38-431.03(B);
    - b. A record that is classified as confidential by a statute or rule applicable to the Board;
    - c. Materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, and any information relating to a client's diagnosis, treatment, or personal family life; and
    - d. The following regarding an applicant or licensee:

- i. College or university transcripts if requested from the Board by a person other than the applicant or licensee;
  - ii. Home address, telephone number, and e-mail address;
  - iii. Test scores;
  - iv. Date of birth;
  - v. Place of birth; and
  - vi. Social Security number.
5. "Gross negligence" means an extreme departure from the ordinary standard of care.
  6. "Inactive status" means a behavior analyst maintains a license as a behavior analyst but is prohibited from practicing behavior analysis or holding oneself out as practicing behavior analysis in Arizona.
  7. "License period" means the two years between May 1 of one odd-numbered year and April 30 of the next odd-numbered year.
  8. "Mitigating circumstances that prevent resolution" means factors the Board considers in reviewing allegations against an applicant or licensee of unprofessional conduct occurring in another regulatory jurisdiction when the allegations would not prohibit licensure in Arizona. The factors may include:
    - a. Nature of the alleged conduct,
    - b. Severity of the alleged conduct,
    - c. Recentness of the alleged conduct,
    - d. Actions taken by the applicant to remedy potential violations, and
    - e. Whether the alleged conduct was an isolated incident or part of a recurring pattern.
  9. "Party" means the Board, an applicant, a licensee, or the state.
  10. "Psychometric testing materials" means manuals, instruments, protocols, and questions or stimuli used in testing.
  11. "Raw test data" means test scores, client responses to test questions or stimuli, and a behavior analyst's notes and recordings concerning client statements and behavior during examination.
  12. "Recognized accrediting agency" means a regional accrediting agency recognized by the U.S. Department of Education or a quality assurance or accreditation entity authorized to operate by a foreign government.
  13. "Regulatory jurisdiction" means a state or territory of the United States, the District of Columbia, or a foreign country with authority to grant or deny entry into a profession or occupation.
  14. "Supervised experience" means supervised work experience, independent fieldwork, university practicum, or intensive university practicum.

#### Historical Note

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

#### R4-26-402. Fees and Charges

- A. As specifically authorized by A.R.S. §§ 32-2091.01(A) and 32-2091.07(B), the Board establishes and shall collect the following fees:
  1. Application for an active license: \$350;
  2. Renewal of an active license: \$500;
  3. Renewal of an inactive license: \$85;
  4. Issuance of an initial license: \$500; and
  5. Reinstatement of expired license: \$200.
- B. As specifically authorized by A.R.S. § 32-2091.01(B), the Board establishes and shall collect the following charges for the services specified:

1. Duplicate license: \$25;
  2. Duplicate renewal receipt: \$5;
  3. Copy of the Board's statutes and rules: \$5;
  4. Verification of a license: \$2;
  5. Audio recording of a Board meeting: \$10 per meeting;
  6. Electronic medium containing the name and address of all licensees: \$.05 per name;
  7. Customized electronic medium containing the name and address of all licensees: \$.25 per name;
  8. Customized electronic medium: \$.35 per name; and
  9. Copy of Board records, letters, minutes, applications, files, policy statements, and other non-confidential documents: \$.25 per page.
- C. Except as provided by law, including A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

#### Historical Note

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

#### R4-26-403. Application for Initial License

- A. An individual who wishes to practice as a behavior analyst and is qualified under A.R.S. § 32-2091.02 shall submit an application form, which is available from the Board office and on its website, and provide the following information:
  1. Full name;
  2. Other names by which the applicant is or ever has been known;
  3. Home address and telephone number;
  4. Business name and address;
  5. Work telephone and fax numbers;
  6. E-mail address;
  7. Gender;
  8. Date of birth;
  9. Social Security number;
  10. An indication of the address and telephone number to be listed in the agency's public directory and used in correspondence;
  11. Place of birth;
  12. A statement of whether the applicant:
    - a. Is or ever has been licensed or certified as a behavior analyst in any regulatory jurisdiction and if so, the jurisdictions and license numbers;
    - b. Is or ever has been certified as a behavior analyst by the BACB and if so, the date of original certification and if not, whether the applicant has ever taken the examination required under R4-26-404;
    - c. Is or ever has been licensed or certified in other fields or professions and if so, the name of the professions, regulatory jurisdictions, and license numbers;
    - d. Is or ever has been a member of a hospital staff or provider panel and if so, the name of the hospital or provider and dates of service;
    - e. Is or ever has been a member of a professional association and if so, the name of the professional association and dates of membership;
    - f. Has ever had a professional license, certification, or registration refused, revoked, suspended, or restricted in any regulatory jurisdiction for reasons relating to unprofessional conduct;
    - g. Has ever voluntarily surrendered a license, certification, or registration, relinquished responsibilities, resigned a position in lieu of termination, or been involuntary terminated in any regulatory jurisdiction while under investigation or in lieu of administrative

## Board of Psychologist Examiners

- proceedings for reasons relating to unprofessional conduct;
- h. Has ever resigned or been terminated from a professional organization, hospital staff, or provider panel while a complaint against the applicant was investigated or adjudicated;
  - i. Is or ever has been under investigation by any professional organization, health care institution, provider panel of which the applicant is a member or staff, or a regulatory agency in any jurisdiction, including the Arizona Board of Psychologist Examiners, concerning the ethical propriety or legality of the applicant's conduct and if so, the entity doing and dates of the investigation;
  - j. Has ever been disciplined by a regulatory agency in any jurisdiction, including the Arizona Board of Psychologist Examiners, health care institution, provider panel, or ethics panel for acts pertaining to the applicant's conduct as a behavior analyst or as a professional in any field and if so, the regulatory agency, jurisdiction, and date of discipline;
  - k. Has ever been convicted of, pled no contest or guilty to, entered into a diversion program to avoid prosecution, or is under indictment or awaiting trial for a felony or misdemeanor, other than a minor traffic offense, including any conviction that has been expunged, pardoned, reversed, or set aside;
  - l. Has ever been sued in a civil court or charged in a criminal court for an act or omission relating to practice as a behavior analyst or work under a license or certificate in another profession, or work as a member of a profession;
  - m. Currently uses alcohol or another drug that in any way impairs or limits the applicant's ability to practice behavior analysis safely and competently; and
  - n. Has a medical, physical, or psychological condition that limits the applicant's ability to practice behavior analysis safely and competently;
13. Name and address of every institution of higher learning attended, dates attended, degree received, name of department, and major subject area studied;
  14. Title of graduate degree program;
  15. Name of major advisor and department;
  16. Title of thesis or dissertation, if applicable;
  17. Title of specialty area, if applicable;
  18. A statement of whether:
    - a. The graduate program completed was accredited at the time of graduation and if so, the name of the accrediting agency;
    - b. The applicant completed a minimum of 225 classroom hours of graduate-level instruction that meet the standards prescribed under R4-26-405; and
    - c. The applicant completed degree, coursework, and supervised experience after January 1, 2000, and if so, whether the applicant completed 1,500 hours of supervised experience in the practice of behavior analysis in no less than 12 months; or
    - d. The applicant completed degree, coursework, or supervised experience before January 1, 2000, and if so, whether:
      - i. The coursework or supervised experience occurred in a setting outside of a college or university program;
      - ii. The coursework or supervised experience was acquired after the graduate degree program and before January 1, 2000; and
      - iii. The applicant is certified by the BACB;
  19. A list of the applicant's supervised experience and the names of individuals the applicant has asked to complete verification forms under subsection (C);
  20. A statement of whether the applicant has completed a minimum of 1,500 hours of supervised experience in behavior analysis that meets the requirements under A.R.S. § 32-2091.03;
  21. A statement of whether the applicant's supervised experience included:
    - a. Conducting behavioral assessment and assessment activities related to the need for behavioral interventions;
    - b. Designing, implementing, and monitoring behavior analysis programs for clients;
    - c. Overseeing the implementation of behavior analysis programs by others; and
    - d. Performing or participating in other activities normally performed by a behavior analyst;
  22. The applicant's signature attesting that all statements in the application are true in every respect.
- B.** Additionally, an applicant shall submit:
1. An original, un-retouched, passport-quality photograph that is no larger than 1.5 X 2 inches in size and taken no more than 60 days before the date of application;
  2. The application fee required under R4-26-402;
  3. As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and
  4. The Board's Mandatory Confidential Information form.
- C.** Additionally, an applicant shall ensure that the following is submitted directly to the Board:
1. Verification that the applicant has passed the examination referenced in R4-26-404 submitted by the BACB;
  2. Verification of supervised experience submitted by an individual with direct knowledge of the supervised work experience, independent fieldwork, university practicum, or intensive university practicum;
  3. Official transcripts from all graduate institutions attended submitted by the institutions; and
  4. Verification of licensure, certification, or registration by another regulatory jurisdiction submitted by the regulatory jurisdiction.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-404. License Examination**

- A.** To be licensed as a behavior analyst in Arizona, an individual shall take and pass the examination administered by the BACB as part of its certification process.
- B.** An individual who fails the BACB examination three times, regardless of jurisdiction, shall not take the examination again until the individual complies with additional requirements that the Board specifies based on an assessment of the knowledge and skill inadequacies causing the individual to fail.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-405. Coursework Requirement**

- A.** As required under A.R.S. § 32-2091.03(A)(3), an applicant for licensure shall complete, as part of or in addition to the coursework necessary to obtain the graduate degree required under A.R.S. § 32-2091.03(A)(1), 225 classroom hours of graduate-



level instruction. The applicant shall ensure that the classroom hours include the following content areas:

1. Ethical and professional conduct: 15 hours;
2. Definitions and characteristics; principles, processes, and concepts: 45 hours;
3. Behavioral assessment; selecting intervention outcomes and strategies: 30 hours;
4. Experimental evaluation of interventions: 20 hours;
5. Measurement of behavior; displaying and interpreting behavioral data: 20 hours;
6. Behavioral change procedures; systems support: 45 hours; and
7. Discretionary content related to behavior analysis: 50 hours.

- B.** The Board shall accept only classroom hours of graduate-level instruction taken at an institution accredited by a recognized accrediting agency.

#### Historical Note

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

#### R4-26-406. Ethical Standard

The Board incorporates by reference BACB Guidelines for Responsible Conduct for Behavior Analysts, July 2010, published by the BACB and available for review at the Board office and online at [www.BACB.com](http://www.BACB.com). The incorporated material includes no later editions or amendments.

#### Historical Note

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

#### R4-26-407. License by Reciprocity

An individual who is licensed or certified as a behavior analyst in another state may apply for an initial license as a behavior analyst in Arizona by complying with R4-26-403 and submitting evidence that the individual:

1. Obtained a graduate degree from an institution of higher learning accredited by a recognized accrediting agency;
2. Completed a minimum of 1,500 hours of supervised experience;
3. Completed a minimum of 225 classroom hours of graduate-level instruction in the content areas listed in R4-26-405; and
4. Passed the examination referenced in R4-26-404.

#### Historical Note

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

#### R4-26-408. License Renewal

- A.** A license issued by the Board, whether active or inactive, expires on May 1 of every odd-numbered year unless renewed.
- B.** The Board shall provide a licensee with 60 days notice of the license renewal deadline. Failure to receive the notice does not excuse failure to renew timely.
- C.** To renew a license, a licensee shall, on or before April 30 of every odd-numbered year, submit to the Board a renewal application form, which is available from the Board office and on its website, and provide the following information:
1. License number;
  2. Name;
  3. Other names by which the licensee is or ever has been known;
  4. Home address and telephone number;
  5. Business name and address;
  6. Work telephone and fax number;
  7. E-mail address;

8. Date of birth;
9. Social Security number;
10. BACB certificate number;
11. A statement of whether the licensee:
  - a. Is in compliance with or exempt from the requirements of A.R.S. § 32-3211 regarding secure storage, transfer, and access of patient records and if not, explain;
  - b. Is currently licensed or certified as a behavior analyst in any regulatory jurisdiction other than Arizona and if so, the jurisdictions and license numbers;
  - c. Is currently licensed or certified in other fields or professions and if so, the name of the professions, regulatory jurisdictions, and license numbers;
  - d. Is a member of a hospital staff or provider panel and if so, the name of the hospital or provider;
  - e. Is currently a member of a professional association and if so, the name of the professional association;
  - f. Has, during the last license period, had a professional license, certification, or registration refused, revoked, suspended, or restricted in any regulatory jurisdiction for reasons relating to unprofessional conduct;
  - g. Has, during the last license period, voluntarily surrendered a license, certification, or registration, relinquished responsibilities, resigned a position in lieu of termination, or been involuntary terminated in any regulatory jurisdiction while under investigation or in lieu of administrative proceedings for reasons relating to unprofessional conduct;
  - h. Has, during the last license period, resigned or been terminated from a professional organization, hospital staff, or provider panel while a complaint against the licensee was investigated or adjudicated;
  - i. Has, during the last license period, been investigated by any professional organization, health care institution, provider panel of which the licensee is a member or staff, or a regulatory agency in any jurisdiction, including the Arizona Board of Psychologist Examiners, concerning the ethical propriety or legality of the licensee's conduct and if so, the entity doing and dates of the investigation;
  - j. Has, during the last license period, been disciplined by a regulatory agency in any jurisdiction, including the Arizona Board of Psychologist Examiners, health care institution, provider panel, or ethics panel for acts pertaining to the licensee's conduct as a behavior analyst or as a professional in any field and if so, the regulatory agency, jurisdiction, and date of discipline;
  - k. Has, during the last license period, been convicted of, pled no contest or guilty to, entered into a diversion program to avoid prosecution, or is under indictment or awaiting trial for a felony or misdemeanor, other than a minor traffic offense, including any conviction that has been expunged, pardoned, reversed, or set aside;
  - l. Has, during the last license period, been sued in a civil court or charged in a criminal court for an act or omission relating to practice as a behavior analyst or work under a license or certificate in another profession, or work as a member of a profession;
  - m. Currently uses alcohol or another drug that in any way impairs or limits the licensee's ability to practice behavior analysis safely and competently; and

- n. Has a medical, physical, or psychological condition that limits the licensee's ability to practice behavior analysis safely and competently;
  - 12. An indication whether the licensee is requesting an active license, voluntary inactive license, or medical inactive license;
  - 13. An attestation that the licensee is in compliance with the continuing education requirement specified in R4-26-409; and
  - 14. The licensee's signature attesting that the information provided is true in every respect.
  - D.** Additionally, to renew a license, a licensee shall submit:
    - 1. The license renewal fee required under R4-26-402;
    - 2. If the documentation previously submitted under R4-26-403(B)(3) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired; and
    - 3. The Board's Mandatory Confidential Information form.
  - E.** If a completed application is timely submitted under subsections (C) and (D) to renew an active license, the licensee may continue to practice behavior analysis under the active license until notified by the Board that the application for renewal has been approved or denied. If the Board denies license renewal, the licensee may continue to practice behavior analysis until the last day for seeking review of the Board's decision or a later date fixed by a reviewing court.
  - F.** Under A.R.S. § 32-2091.07, the license of a licensee who fails to submit a renewal application on or before April 30 of an odd-numbered year expires and the licensee shall immediately stop practicing as a behavior analyst in Arizona.
  - G.** A behavior analyst whose license expires under subsection (F) may have the license reinstated by submitting the following to the Board on or before June 30 of the year in which the license expired:
    - 1. The license renewal application required under subsection (C) and the document required under subsection (D)(2),
    - 2. A sworn affidavit that the applicant has not practiced as a behavior analyst in Arizona since the applicant's license expired, and
    - 3. The license renewal and license reinstatement fees.
  - H.** A behavior analyst whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) may have the license reinstated by:
    - 1. Complying with subsections (G)(1) through (3) on or before the following April 30th, and
    - 2. Providing proof of competency and qualifications to the Board.
  - I.** A behavior analyst whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) or (H) may be licensed again only by complying with R4-26-403.
- Historical Note**
- Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).
- R4-26-409. Continuing Education Requirement**
- A.** A licensee shall complete a minimum of 30 hours of continuing education during each license period. A licensee shall ensure that at least four hours of continuing education addresses ethics.
  - B.** During a licensee's first license period, the licensee shall complete a pro-rated number of continuing education hours. To determine the number of continuing education hours required during the first license period, the licensee shall multiply the number of whole months from the month of license issuance to the end of the license period by 1.25.
  - C.** A licensee shall ensure that each continuing education program provides the necessary understanding of current developments, skills, or procedures related to the practice of behavior analysis. The following provide the necessary understanding of current developments, skills, or procedures related to the practice of behavior analysis:
    - 1. Continuing education programs offered by a BACB-approved provider: One hour of continuing education for each hour of participation;
    - 2. Courses that directly relate to behavior analysis and are provided by an accredited educational institution: 15 hours of continuing education for each semester hour completed and 10 hours of continuing education for each quarter hour completed;
    - 3. Self-study, online, or correspondence course that is directly related to behavior analysis and offered by BACB-approved provider or approved or offered by an accredited educational institution: Hours of continuing education determined by the course provider;
    - 4. Teaching a continuing education program offered by a BACB-approved provider or approved or offered by an accredited educational institution: One hour of continuing education for each hour taught;
    - 5. Credentialing activities approved for continuing education by the BACB: One hour of continuing education for each hour of participation;
    - 6. Publication of a peer-reviewed article or text book on the practice of behavior analysis: 15 hours of continuing education; and
    - 7. Attending a Board meeting: Two hours for attending a morning or afternoon session of a Board meeting and four hours for attending a full-day Board meeting.
  - D.** The number of hours of continuing education is limited as follows:
    - 1. No more than 25 percent of the required hours may be obtained from teaching a continuing education program or course under subsection (C)(4). A licensee shall not obtain continuing education hours for teaching the same continuing education program or course more than two times during each licensing period. A licensee shall earn no continuing education hours for participating as a member of a panel at a continuing education program or course;
    - 2. No more than 25 percent of the required hours may be obtained from continuing education under subsections (C)(3) and (5).
    - 3. No more than six of the required hours may be obtained under subsection (C)(7). Hours obtained under subsection (C)(7) may be used to complete the ethics requirement under subsection (A).
    - 4. Hours obtained in excess of the minimum required during a license period shall not be carried over to a subsequent license period.
  - E.** A licensee shall obtain a certificate or other evidence of attendance from the provider of each continuing education program or course attended that includes the following:
    - 1. Name of the licensee;
    - 2. Title of the continuing education;
    - 3. Name of the continuing education provider;
    - 4. Date, time, and location of the continuing education; and
    - 5. Number of hours of continuing education obtained.
  - F.** A licensee shall maintain the evidence of attendance described in subsection (E) for two licensing periods and make the evidence available to the Board upon request.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-410. Voluntary Inactive Status**

- A. A licensed behavior analyst may request that the Board place the license on inactive status for one of the following reasons:
1. The behavior analyst no longer provides behavior analysis services in Arizona,
  2. The behavior analyst is retired, or
  3. The behavior analyst is physically or mentally incapacitated or otherwise disabled.
- B. To place a license on inactive status, a licensee shall comply with R4-26-408.
- C. To remain licensed, a licensee on inactive status shall comply with R4-26-408 on or before April 30 of every odd-numbered year.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-411. License Reinstatement**

A licensee seeking reinstatement from an inactive to an active license shall:

1. Comply with the provisions of R4-26-408(C) and (D);
2. Submit evidence of completing a pro-rated number of hours of continuing education. The licensee shall calculate the number of continuing education hours required by multiplying the number of whole months that the license was on inactive status by 1.25; and
3. Complete any other requirements the Board determines are necessary to ensure that the licensee has maintained and updated the licensee's ability to practice as a behavior analyst.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-412. Client Records**

- A. A licensee shall not condition release of a client's record on payment for services by the client or a third party.
- B. A licensee shall release a client's raw test data to another licensed behavior analyst only after obtaining the client's informed, written consent to the release. Without a client's informed, written consent, a licensee shall release the client's raw test data only to the extent required by law or under court order compelling production.
- C. A licensee shall retain all client records under the licensee's control for at least six years from the date of the last client activity. If a client is a minor, the licensee shall retain the client's record for at least three years past the client's 18th birthday or six years from the date of the last client activity, whichever is longer.
- D. Audio or video tapes created primarily for training or supervisory purposes are exempt from the requirement of subsection (C).
- E. A licensee who is notified by the Board or municipal, state, or federal officials of an investigation or pending case shall retain all records relating to the investigation or case until the licensee receives written notice that the investigation is complete or the case is closed.
- F. A licensee may retain client records in electronic form. The licensee shall ensure that client records in electronic form are stored securely and a backup copy is maintained.
- G. The provisions of this Section apply to all licensees including those on inactive status.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-413. Change of Name, Mailing Address, E-mail Address, or Telephone Number**

- A. The Board shall communicate with a licensee using the contact information provided to the Board. To ensure timely communication from the Board, a licensee shall notify the Board, in writing, within 30 days of any change of name, mailing address, e-mail address, or residential or business telephone number.
- B. A licensee who reports a name change shall submit to the Board legal documentation that explains the name change.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-414. Complaints and Investigations**

- A. Anyone, including the Board, may file a complaint. A complainant shall ensure that a complaint filed with the Board involves:
1. An individual licensed under this Article; or
  2. An individual, including an applicant, believed to be engaged in the unlicensed practice of behavior analysis.
- B. Complaint requirements. A complainant shall:
1. Submit the complaint to the Board in writing; and
  2. Provide the following information:
    - a. Name and business address of licensee or other individual who is the subject of complaint;
    - b. Name and address of complainant;
    - c. Allegations constituting unprofessional conduct;
    - d. Details of the complaint with pertinent dates and activities;
    - e. Whether the complainant has contacted any other organization regarding the complaint; and
    - f. Whether complainant has contacted the licensee or other individual concerning the complaint and if so, the response, if any.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-415. Informal Interview**

- A. As authorized by A.R.S. § 32-2091.09(H), the Board may facilitate investigation of a complaint by conducting an informal interview. The Board shall send written notice of an informal interview to the individual who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 30 days before the informal interview.
- B. The Board shall ensure that the written notice of informal interview contains the following information:
1. The time, date, and place of the informal interview;
  2. An explanation of the informal nature of the proceedings;
  3. The individual's right to appear with legal counsel who is authorized to practice law in Arizona or without legal counsel;
  4. A statement of the allegations and issues involved with a citation to relevant statutes and rules;
  5. The individual's right to a formal hearing under A.R.S. Title 41, Chapter 6, Article 10 instead of the informal interview;
  6. The licensee's right, as specified in A.R.S. § 32-3206, to request a copy of information the Board will consider in making its determination; and
  7. Notice that the Board may take disciplinary action as a result of the informal interview if it finds the individual

violated A.R.S. Title 32, Chapter 19.1, Article 4, or this Article;

- C. The Board shall ensure that an informal interview proceeds as follows:
1. Introduction of the respondent and, if applicable, the complainant, any other witnesses, and legal counsel for the respondent;
  2. Introduction of the Board members, staff, and Assistant Attorney General present;
  3. Swearing in of the respondent, complainant, and witnesses;
  4. Brief summary of the allegations and purpose of the informal interview;
  5. Optional opening comment by the respondent and complainant;
  6. Questioning of the respondent and witnesses by the Board;
  7. Questioning of the complainant by the respondent through the Chair;
  8. Optional additional comments by the respondent and complainant; and
  9. Deliberation by the Board.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-416. Rehearing or Review of Decision**

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10.
- B. Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
  7. The findings of fact or a decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F. Within 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with par-

ticularity the grounds on which the rehearing or review is granted.

- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- H. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.
- I. An application for judicial review of any final Board decision may be made under A.R.S. § 12-901 et seq.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-417. Licensing Time-frames**

- A. For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames:
1. Initial license.
    - a. Overall time-frame: 120 days,
    - b. Administrative completeness review time-frame: 30 days, and
    - c. Substantive review time-frame: 90 days; and
  2. Renewal license.
    - a. Overall time-frame: 150 days,
    - b. Administrative completeness review time-frame: 60 days, and
    - c. Substantive review time-frame: 90 days; and
- B. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frames by no more than 25% of the overall time-frame.
- C. The administrative completeness review time-frame begins when the Board receives the application materials required under R4-26-403 or R4-26-408(C) and (D). During the administrative completeness review time-frame, the Board shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the Board shall specify in the notice what information is missing.
- D. An applicant whose application is incomplete shall submit the missing information to the Board within 240 days for an initial license. Both the administrative completeness review and overall time-frames are suspended from the date of the Board's notice under subsection (C) until the Board receives all of the missing information.
- E. Upon receipt of all missing information, the Board shall notify the applicant that the application is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license within the administrative completeness review time-frame listed in subsection (A)(1)(b) or (A)(2)(b).
- F. The substantive review time-frame begins on the date of the Board's notice of administrative completeness.
- G. If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant a comprehensive written request for additional information.
- H. An applicant who receives a request under subsection (G) shall submit the additional information to the Board within 240 days. Both the substantive review and overall time-frames are suspended from the date of the Board's request until the Board receives the additional information.
- I. An applicant may receive a 30-day extension of the time provided under subsection (D) or (H) by providing written notice to the Board before the time expires. If an applicant fails to

submit to the Board the missing or additional information within the time provided under subsection (D) or (H) or the time as extended, the Board shall close the applicant's file. To receive further consideration, a person whose file is closed shall re-apply.

**J.** Within the overall time-frame listed in subsection (A), the Board shall:

1. Grant a license if the Board determines that the applicant meets all criteria required by statute and this Article; or
2. Deny a license if the Board determines that the applicant does not meet all criteria required by statute and this Article.

**K.** If the Board grants a license under subsection (J)(1), the Board shall send the applicant a notice explaining that the Board shall issue the license only after the applicant pays the license issuance fee specified under R4-26-402 and pro-rated as prescribed under A.R.S. § 32-2091.07(A).

**L.** If the Board denies a license, the Board shall send the applicant a written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;

2. The applicant's right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;
3. The time for appealing the denial; and
4. The applicant's right to request an informal settlement conference.

**M.** If a time-frame's last day falls on a Saturday, Sunday, or official state holiday, the next business day is the time-frame's last day.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-418. Mandatory Reporting Requirement**

- A.** As required by A.R.S. § 32-3208, an applicant or licensee who is charged with a misdemeanor involving conduct that may affect client safety or a felony shall provide written notice of the charge to the Board within 10 days after the charge is filed.
- B.** A list of reportable misdemeanors is available on the Board's website.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 29. OFFICE OF PEST MANAGEMENT

(Authority: A.R.S. § 32-2301 et seq.)

*Chapter heading amended from Structural Pest Control Commission to Office of Pest Management by A.R.S. § 32-2302 as amended by Laws 2008, Ch. 309 (Supp. 09-4).*

#### ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

*Article 1, consisting of Sections R4-29-101 through R4-29-107 and Table 1, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).*

*Article 1, consisting of Sections R4-29-101 through R4-29-107, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 1, consisting of Sections R4-29-01 through R4-29-06, repealed effective December 24, 1992 (Supp. 92-4).*

##### Section

R4-29-101.	Definitions
R4-29-102.	License Categories and Scope of Work
R4-29-103.	Complaint Information
R4-29-104.	Providing Information to the Commission
R4-29-105.	Fees; Charges; Exemption
R4-29-106.	Joint Responsibility
R4-29-107.	Licensing Time-frames
Table 1.	Time-frames (Calendar Days)
R4-29-108.	Repealed

#### ARTICLE 2. OBTAINING, RENEWING, ACTIVATING OR INACTIVATING A LICENSE; EXAMINATION; CONTINUING EDUCATION REQUIREMENT; APPROVAL OF CONTINUING EDUCATION

*Article 2, consisting of Sections R4-29-201 through R4-29-216, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).*

*Article 2, consisting of Sections R4-29-201 through R4-29-213, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 2, consisting of Sections R4-29-14 through R4-29-26, repealed effective December 24, 1992 (Supp. 92-4).*

##### Section

R4-29-201.	Activities that Require a License; General Provisions
R4-29-202.	License Exemptions; Unlicensed Persons
R4-29-203.	Obtaining an Applicator License
R4-29-204.	Obtaining a Qualifying Party License
R4-29-205.	Licensing Examination for an Applicator or Qualifying Party Applicant
R4-29-206.	Obtaining a Business License
R4-29-207.	Renewing an Applicator, Qualifying Party, or Business License
R4-29-208.	Obtaining a Temporary Qualifying Party License
R4-29-209.	Expired
R4-29-210.	Inactivating or Activating an Applicator License
R4-29-211.	Inactivating or Activating a Qualifying Party License
R4-29-212.	Broadening an Applicator or Qualifying Party License
R4-29-213.	Branch Office Registration
R4-29-214.	Change in a Business Licensee
R4-29-215.	Continuing Education Requirement for an Applicator or Qualifying Party
R4-29-216.	Requirements for Approval of Continuing Education

#### ARTICLE 3. APPLICATOR DUTIES AND RESPONSIBILITIES

*Article 3, consisting of Sections R4-29-301 through R4-29-320, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 3, consisting of Sections R4-29-35 through R4-29-38, repealed effective December 24, 1992 (Supp. 92-4).*

##### Section

R4-29-301.	Compliance with Commission Monitoring
R4-29-302.	Providing Notice to Customers
R4-29-303.	Performing a Wood-destroying Insect Inspection
R4-29-304.	Using Pesticides and Devices
R4-29-305.	Performing Wood-destroying Insect Control
R4-29-306.	Storing and Disposing of Pesticides and Devices
R4-29-307.	Applicator Recordkeeping
R4-29-308.	Repealed
R4-29-309.	Repealed
R4-29-310.	Repealed
R4-29-311.	Repealed
R4-29-312.	Repealed
R4-29-313.	Repealed
R4-29-314.	Repealed
R4-29-315.	Repealed
R4-29-316.	Expired
R4-29-317.	Expired
R4-29-318.	Expired
R4-29-319.	Expired
R4-29-320.	Expired

#### ARTICLE 4. REPEALED

*Article 4, consisting of Sections R4-29-401 through R4-29-418, adopted effective December 24, 1992 (Supp. 92-4).*

*Article 4, consisting of Sections R4-29-40 through R4-29-47, repealed effective December 24, 1992 (Supp. 92-4).*

##### Section

R4-29-401.	Repealed
R4-29-402.	Repealed
R4-29-403.	Expired
R4-29-404.	Expired
R4-29-405.	Reserved
R4-29-406.	Expired
R4-29-407.	Repealed
R4-29-408.	Repealed
R4-29-409.	Repealed
R4-29-410.	Repealed
R4-29-411.	Expired
R4-29-412.	Repealed
R4-29-413.	Repealed
R4-29-414.	Repealed
R4-29-415.	Repealed
R4-29-416.	Expired
R4-29-417.	Repealed
R4-29-418.	Repealed

#### ARTICLE 5. QUALIFYING PARTY DUTIES AND RESPONSIBILITIES

*Article 5, consisting of Sections R4-29-501 through R4-29-505, made by final rulemaking at 13 A.A.R. 623, effective April 7,*

2007 (Supp. 07-1).

*Article 5, consisting of Sections R4-29-501 through R4-29-504, adopted effective December 24, 1992 (Supp. 92-4).*

#### Section

- R4-29-501. Compliance with Applicator Duties and Responsibilities
- R4-29-502. Supervising an Applicator
- R4-29-503. Qualifying a Business License
- R4-29-504. Qualifying Party Management
- R4-29-505. Qualifying Party Recordkeeping
- Appendix A. Repealed

### ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES

*Article 6, consisting of Sections R4-29-601 through R4-29-609, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).*

#### Section

- R4-29-601. Compliance with Applicator Duties and Responsibilities
- R4-29-602. Reserved
- R4-29-603. Supervision of Qualifying Party
- R4-29-604. Qualifying Party Required
- R4-29-605. Business Management
- R4-29-606. Storing Pesticides and Devices
- R4-29-607. Equipping a Service Vehicle
- R4-29-608. Providing Termite Treatment
- R4-29-609. Business Licensee Recordkeeping

### ARTICLE 7. INSPECTIONS; INVESTIGATIONS; COMPLAINTS; DISCIPLINARY PROCEDURES

*Article 7, consisting of Sections R4-29-701 through R4-29-708, made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).*

#### Section

- R4-29-701. General Provisions
- R4-29-702. Inspections, Investigations, and Complaints
- R4-29-703. Settlement Conferences
- R4-29-704. Consent Agreements
- R4-29-705. Hearing Procedures
- R4-29-706. Review or Rehearing of a Commission Decision
- R4-29-707. Judicial Review of Commission Order
- R4-29-708. Disciplinary Action

### ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

#### R4-29-101. Definitions

The definitions in A.R.S. § 32-2301 et seq. apply to this Chapter. Additionally, in this Chapter:

“Administratively complete” means an application contains all components required by statute or this Chapter to be submitted to the Commission to enable the Commission to determine whether to grant a license or approval.

“Advertisement” means a written or oral notice, including a business card or telephone directory listing, which is intended, directly or indirectly, to induce a person to enter into an agreement for pest management services.

“Applicant” means:

An individual requesting an initial or renewal applicator, temporary qualifying party, or qualifying party license;

One of the following if requesting an initial or renewal business license:

An individual, for a sole proprietorship;

An officer, for a corporation;

The managing or general partner, for a partnership or limited liability partnership;

The manager or two members, for a limited liability company or professional liability company; or

A designated agent of a state agency or political subdivision or appointed or elected individual or body, an appointed or elected individual, or a member of an appointed or elected body; or

An individual or entity requesting approval of a continuing education course.

“Applicator” means an individual licensed by the Commission as qualified to provide pest management services when working under both a qualifying party and business license.

“Before construction treatment,” as used in the Commission’s statutes, means pretreatment.

“Broadening” means to add another category of work to an existing license.

“Continuing education” means a planned course or program that the Commission approves under R4-29-216.

“Continuing education unit” means 60 minutes of participation in continuing education.

“Control” means to exterminate, eradicate, destroy, kill, repel, sterilize, mitigate, remove, or a combination of these activities.

“De minimis violation” has the same meaning as prescribed in A.R.S. § 32-2301 and means an act or omission by a licensee for which the Commission provides an opportunity to correct the act or omission informally rather than filing a complaint against the licensee.

“Disassociate” means to die, become ill or disabled, resign, retire, be terminated, or be called to active military duty.

“During-construction treatment,” as used in the Commission’s statutes, means new-construction treatment.

“Entire structure” means all critical areas as defined in this Chapter and as specified on product labeling for both the interior and exterior of a structure.

“EPA” means the U.S. Environmental Protection Agency.

“Final-grade treatment” means to establish vertical barriers at the exterior of foundation walls in stem-wall construction or at the exterior of grade beams in monolithic construction.

“Fog or fogging” means applying a pesticide by a flammable, aerosolizing thermal or other generator that forms particles less than 10 microns in diameter.

“Food-handling establishment” means a place, other than a private residence, in which food is received, served, stored, packaged, prepared, or processed.

“Fumigant” means a chemical substance with a vapor pressure greater than five millimeters of mercury at 25 degrees Centigrade that is used to destroy plant or animal life.

“Fumigation” means a method of pest management that completely fills an area with a fumigant to suffocate or poison pests within the area.

“Fungi” means saprophytic and parasitic organisms that lack chlorophyll such as molds, rusts, mildews, smuts, and yeast, except those on or in living people or animals or processed foods, beverages, or pharmaceuticals.

“Fungi inspection report” means the document authorized by A.R.S. § 32-2324.01 and prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.

“Inquiry” means a threshold investigation by the Commission to determine whether the Commission has jurisdiction in a matter and if so, the likelihood that there has been a violation of the Commission’s statutes or this Chapter or misuse of a pesticide.

“Label” means a written, printed, or graphic document that is approved by the EPA and on or attached to a pesticide container, the wrapper of a pesticide container, or a device.

“Labeling” means a written, printed, or graphic document that is authorized by the manufacturer or a state or federal agency to accompany a pesticide or device, or is referred to on the label or in literature accompanying the pesticide or device.

“Late” means a document required to be submitted to the Commission is post-marked after the date the document is due or is not received by the Commission.

“Liability insurance,” as used in A.R.S. § 32-2313, means insurance that protects the business licensee named in the insurance policy and any person working with the express or implied permission of the named business licensee, against loss from legal liability for bodily injury or property damage as a result of the named business licensee providing pest management services.

“Manner inconsistent with the label” means the use of a pesticide in a manner not permitted by the label or labeling.

“MSDS” means material safety data sheet, which is a written communication regarding a hazardous chemical that meets the standards at 29 CFR 1910.1200(g).

“New-construction treatment” means a termite treatment that complies with standards in the Commission’s statutes and this Chapter, protects all cellulose components of a structure from subterranean termites, and is performed after a permanent concrete slab foundation is installed or after footings and supports for a raised foundation are installed but before the structure or a final grade is completed.

“Next business day,” as used in A.R.S. § 32-2323(G), means the first day after the 30th calendar day that is not a Saturday, Sunday, or state holiday.

“Non-food area of a food-handling establishment” means a lavatory, floor drain, entrance or vestibule, office, garage, mop closet, can or bottle storage, or garbage, locker, machine, or boiler room.

“Of employment,” as used in A.R.S. § 32-2312(E), means the date on which an employee of a business licensee first applies a pesticide within the scope of employment by the business licensee.

“Other equivalent item,” as used in A.R.S. § 32-2313(H) regarding financial responsibility, means an irrevocable and unconditional letter of credit, from an Arizona-chartered or federally chartered financial institution, that is filed with the Commission.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Person” means an individual, sole proprietorship, corporation, limited liability corporation, partnership, association, governmental subdivision or unit of a governmental subdivision, public or private organization, or governmental agency.

“Pest” means a vertebrate or invertebrate insect, bird, mammal, organism, or a weed or plant pathogen that is in an undesirable location.

“Pesticide,” as defined in A.R.S. § 32-2301, includes an insecticide, fungicide, rodenticide, termiticide, fumigant, larvacide, adulticide, herbicide, avicide, or molluscicide.

“Pest management services” means the tasks that comprise the business of structural pest control or structural pest control as defined in A.R.S. § 32-2301.

“Post-construction treatment” means a treatment that complies with standards in the Commission’s statutes and this Chapter to control subterranean termites or other wood-destroying insects in an existing structure, and is performed after all soil disturbance associated with construction is complete and after an applicator has completed an inspection of the structure and a treatment proposal under A.R.S. § 32-2323(A) and (B).

“Practical experience,” as used in A.R.S. § 32-2314, means field work, research, training, teaching, or supervision relevant to pest management services regardless of whether compensation is received, and coursework as required by the Commission’s statutes.

“Pretreatment” means a termite treatment that complies with standards in the Commission’s statutes and this Chapter, protects all cellulose components of a structure from subterranean termites, is performed before a permanent concrete slab foundation is installed or in conjunction with establishing footings and supports for a raised foundation, and establishes thorough and complete horizontal and vertical treated barriers.

“Primary service,” as used in A.R.S. § 32-2311(A)(6)(c), means applying an herbicide as the only or predominant service under a verbal or written contract to maintain a property.

“Prior to construction,” as used in the Commission’s statutes, means pretreatment.

“Prior violation of the same type” means failure to comply with a statute or rule regarding use of a pesticide, failure to comply with a statute or rule not regarding the use of a pesticide, failure to comply with a Commission order, or engaging in unlicensed activity, for which disciplinary action was taken within the five years preceding similar conduct for which current disciplinary action is sought.

“Project” means an individual address or a privately owned or individually owned dwelling.

“Public liability,” as used in A.R.S. § 32-2313, means protection against legal liability for the death, injury, or disability of any human being.

“Repeated de minimis violations,” as used in A.R.S. § 32-2321, means at least three similar violations of statute or rule by the same licensee within five years.

“Service container” means a receptacle, other than the originally labeled receptacle provided by the manufacturer, that is used to hold, store, or transport a pesticide concentrate or use-dilution preparation.

“Service vehicle” means a motor vehicle, including a trailer attached to the motor vehicle, used regularly to transport a licensee and equipment or pesticides used to provide pest management services.

“Signal word” means a word printed on a label that indicates the toxicity level of the pesticide in the container to which the label is affixed.

“Special Local Need registration” means an authorization from the Arizona Department of Agriculture to use a pesticide, which meets an Arizona-specific need, in Arizona according to the terms of the registration.

“Specimen label” means a label other than the label attached to a pesticide container that contains the same information as the label attached to the pesticide container.



“Sterilant,” as used in A.R.S. § 32-2311(A)(6)(b), means a product that may prevent vegetation growth for 12 or more months.

“Structure” means all parts of a building, whether vacant or occupied, in all stages of construction.

“Subterranean termites” means the several species of termites that usually maintain contact with the soil, including those in the families Rhinotermitidae and Termitidae.

“Supplemental wood-destroying insect inspection” means a re-examination made by an applicator of the business licensee that conducted a previous wood-destroying insect inspection and within 30 days of the previous examination to determine whether corrective treatment has been performed or conditions conducive to wood-destroying insects have been corrected.

“Tag” means a written document that is required under this Chapter to be posted conspicuously at a pretreatment or new-construction treatment site.

“TARF” means termite action report form.

“Temporary qualifying party” means an individual who is licensed by the Commission under R4-29-208 for a limited time to ensure the training, supervision, and equipping of a business licensee’s applicators after the business licensee’s qualifying party disassociates from the business.

“Termiticide” means a chemical registered by the EPA and the Arizona Department of Agriculture and used for control of termites.

“Water-retention basin” means an area to temporarily hold water run-off until the water dissipates.

“WDIIR” means wood-destroying insect inspection report, which is a written report on a form approved by the Commission that is prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.

“Web site” means the Commission’s Internet site at [www.sb.state.az.us](http://www.sb.state.az.us) or a subsequent uniform resource locator.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-102. License Categories and Scope of Work

For the purpose of this Chapter and A.R.S. § 32-2301 et seq., license categories and the scope of work for each category are as follows:

1. Category B1 (General pest and public health) is limited to controlling general terrestrial vertebrate and invertebrate pests in or about a residential or other structure, public health pests, and pests not included in another license category but does not include pests in forests, aquatic food production, or agricultural plant areas.
2. Category B2 (Wood-destroying insect control) is limited to controlling wood-destroying insects in or about a structure by a means other than use of a fumigant.
3. Category B3 (Weed and right-of-way control) is limited to controlling terrestrial weeds in all areas other than a forest or agricultural plant or aquatic area.
4. Category B4 (Fumigation) is limited to using fumigants.
5. Category B5 (Turf and ornamental horticulture) is limited to controlling plant and turf pests, diseases, or viruses and using plant growth regulators on ornamental horticultural

plants and turf in all areas other than a forest or agricultural plant area and except by means of a fumigant.

6. Category B7 (Fungi inspection) is limited to inspecting a structure for suspected fungi and completing a Commission-approved structural fungi inspection report.
7. Category B8 (Wood-destroying insect inspection) is limited to inspecting a structure for the items listed in R4-29-303 and reporting the results of the inspection on a WDIIR.
8. Category B9 (Aquatic) is limited to controlling pests, including weeds, in an aquatic area other than a water-retention basin or agricultural or forest area, and except for mosquito control.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-103. Complaint Information

- A. A person may submit information to the Commission alleging unlicensed activity or misuse of a pesticide or violation of law by a licensee or a person who is not licensed. Information may be submitted in writing by mail, electronic mail, or fax, or orally by telephone or personal appearance.
- B. The Commission shall ensure that information regarding the complaint process is available on the Commission’s web site.
- C. If the Commission determines that the public health may be in danger, the Commission shall refer a complaint or the results of an investigation to the Arizona Department of Health Services, another appropriate health-related agency, or the EPA.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-104. Providing Information to the Commission

- A. A person that wants the Commission to consider written information at a meeting shall submit the written information by the cut-off date established by the Commission.
- B. An individual who wants to address the Commission may do so by appearing at a Commission meeting and completing a request-to-speak form.
- C. The Commission shall ensure that Commission meeting dates and the cut-off date for each meeting are available on the Commission’s web site.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-105. Fees; Charges; Exemption

- A. Under the authority provided by A.R.S. § 32-2317, the Acting Director establishes and shall collect the following fees:
  1. For an applicator:
    - a. License application, \$30;
    - b. License broadening application, \$10;
    - c. License renewal application, active or inactive status, online, \$20;
    - d. License renewal application, active or inactive status, on paper, \$25; and

## Office of Pest Management

- e. Duplicate license, \$10.
2. For a qualifying party:
  - a. License application, \$150;
  - b. License broadening application, \$50;
  - c. License renewal during active status, online, \$120;
  - d. License renewal during active status, on paper, \$125;
  - e. License renewal during inactive status, online, \$20;
  - f. License renewal during inactive status, on paper, \$25;
  - g. Change from inactive to active status, \$125;
  - h. Temporary qualifying party license application, \$25;
  - i. Temporary qualifying party license renewal application, \$25; and
  - j. Duplicate license, \$10.
3. For a business:
  - a. License application, \$75;
  - b. License renewal application, online, \$70;
  - c. License renewal application, on paper, \$75;
  - d. Branch office registration application, \$35;
  - e. Branch office registration renewal application, \$35; and
  - f. Duplicate license, \$10.
- B.** Under the authority provided by A.R.S. § 32-2304(A)(13), the Acting Director establishes and shall collect a penalty that is double the license renewal fee for any license that is not renewed timely. The penalty is in addition to the license renewal fee.
- C.** If the Acting Director administers the examination required under A.R.S. § 32-2312(C) or 32-2314(C), the Acting Director shall charge \$50 to cover the cost of providing this service. If the Acting Director enters into a contract with an examination service or testing vendor, an applicant shall pay to the examination service or testing vendor the examination cost established in the contract.
- D.** Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a fee of \$8 for each TARF required to be submitted under this Chapter except there is no fee to submit timely a TARF pertaining to a final-grade treatment.
- E.** Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a penalty of \$8 for a TARF that is filed within 180 days after it is due and a penalty of \$16 for a TARF that is filed more than 180 days after it is due. The penalty is in addition to the TARF filing fee under subsection (D). The penalty in this subsection applies to an untimely TARF pertaining to a final-grade treatment.
- F.** Any payment to the Office may be made by cash, credit or debit card, money order, or cashier's, certified, business, or personal check. If payment is made by money order or check, the payer shall make the money order or check payable to the Office of Pest Management. If payment is made by business or personal check, payment is not credited until the check clears the bank. The Office does not prorate fees. Fees are not refundable unless A.R.S. § 41-1077 applies. The Office may refuse all forms of payment other than cash, cashier's check, or money order from a person that issued an insufficient-funds payment to the Office.
- G.** An employee of the Office or the Arizona Department of Agriculture who applies for or holds an Office-issued license is exempt from the fees in subsections (A) through (C).
- H.** The Acting Director shall reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service.
- I.** Notwithstanding subsections (A), (D) and (E), for services provided in fiscal year 2012-2013, the Acting Director shall collect the following fees:
  1. For an applicator:
    - a. License application, \$75;
    - b. License broadening application, \$30; and
    - c. License renewal application, active or inactive status, \$50.
  2. For a qualifying party:
    - a. License application, \$175;
    - b. License broadening application, \$150;
    - c. License renewal during active status, \$150;
    - d. License renewal during inactive status, \$75;
    - e. Change from inactive to active status, \$125;
    - f. Temporary qualifying party license application, new or renewal, \$75.
  3. For a business:
    - a. License application, \$250;
    - b. License renewal application, \$200; and
    - c. Branch office registration application, new or renewal, \$75.
  4. For a duplicate license, \$10.
  5. TARF submittal:
    - a. Electronic, \$8;
    - b. On paper, \$15; and
    - c. Penalty, in addition to the regular fee, for a TARF filed more than 30 days after it is due, \$16.
- J.** In addition to the fees in subsection (I), the Acting Director may collect service charges from persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1). Section amended by emergency rulemaking at 15 A.A.R. 1835, effective October 15, 2009, for 180 days (Supp. 09-4). Emergency expired; Section amended by exempt rulemaking at 16 A.A.R. 290, effective November 30, 2009 by Laws 2009, 4th Spec. Sess., Ch. 3, § 28 (Supp. 10-1). Amended by exempt rulemaking at 18 A.A.R. 626, effective July 20, 2011 (Supp. 12-1). Amended by exempt rulemaking at 18 A.A.R. 2068, effective August 2, 2012 (Supp. 12-3).

**R4-29-106. Joint Responsibility**

- A.** An applicator, qualifying party, or business licensee who supervises another person, whether the supervised person is licensed or unlicensed, shall ensure that the supervised person is properly trained and equipped and receives the supervision necessary for the supervised person to provide pest management services competently and safely.
- B.** Under A.R.S. § 32-2308, an applicator, qualifying party, or business licensee who supervises another person, whether the supervised person is licensed or unlicensed, may be held jointly responsible for the acts or omissions of the supervised person.
- C.** It is an affirmative defense to joint responsibility as described in subsection (B) if an applicator, qualifying party, or business licensee, complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section

made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-107. Licensing Time-frames**

- A.** Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in Table 1. The overall time-frame, which is the total number of days provided for both the administrative completeness and substantive review time-frames, begins when the Commission receives an application.
- B.** Administrative completeness review time-frame.
1. During the administrative completeness review time-frame, the Commission shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the Commission shall specify in the notice what information is missing. If the Commission does not provide notice to the applicant within the administrative completeness review time-frame, the Commission shall deem the application complete.
  2. An applicant with an incomplete license application shall supply the missing information within the completion request period listed in Table 1. The administrative completeness review and overall time-frames are suspended from the postmark date of the notice of missing information until the date the Commission receives the information.
  3. If an applicant fails to submit the missing information before expiration of the completion request period, the Commission shall close the file. An applicant whose file is closed may apply for a license by submitting a new application and application fee.
- C.** Substantive review time-frame. The substantive review time-frame listed in Table 1 begins when an application is administratively complete or at the end of the administrative completeness review time-frame in Table 1, whichever occurs first. If the Commission determines during the substantive review that additional information is needed, the Commission shall send

the applicant a comprehensive written request for additional information. Both the substantive review and overall time-frames are suspended from the date of the Commission's request until the date that the Commission receives the additional information. The applicant shall submit the additional information within the additional information period listed in Table 1. If the applicant fails to provide the additional information within the additional information period in Table 1, the Commission shall close the application. An applicant whose file is closed may apply for a license by submitting a new application and application fee.

- D.** Within the overall time-frame listed in Table 1, the Commission shall:
1. Deny a license or approval to an applicant if the Commission determines that the applicant does not meet all the substantive criteria required by the Commission's statutes and this Chapter; or
  2. Grant a license or approval to an applicant if the Commission determines that the applicant meets all the substantive criteria required by the Commission's statutes and this Chapter.
- E.** If the Commission denies a license or approval under subsection (D)(1), the Commission shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a fair hearing to challenge the denial; and
  3. The time for appealing the denial.

#### **Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**Table 1. Time-frames (Calendar Days)**

Type of License, Registration, Change or Approval	Applicable Statute or Rule	Administrative Completeness Review	Response to Completion Request	Substantive Review	Response to Additional Information	Overall Time-frame
Applicator	A.R.S. § 32-2312					
New	R4-29-203	30	90	100	180	130
Renewal	R4-29-207	30	90	100	15	130
Broaden	R4-29-212	30	90	100	180	130
Activate	R4-29-210	30	90	100	15	130
Qualifying Party	A.R.S. § 32-2314					
New	R4-29-204	30	90	100	180	130
Renewal	R4-29-207	30	90	100	15	130
Temporary	R4-29-208	10	10	10	15	20
Renew Temporary	R4-29-209	10	10	100	15	110
Broaden	R4-29-212	30	90	100	180	130
Activate	R4-29-211	30	90	100	15	130
Business	A.R.S. § 32-2313					
New	R4-29-206	30	90	100	15	130
Renewal	R4-29-207	30	90	100	15	130
Branch Office	R4-29-213	30	90	100	15	130
Name Change	R4-29-214	30	90	100	15	130
Continuing Education Approval	A.R.S. § 32-2319 R4-29-216	20	60	55	15	75

#### **Historical Note**

Table 1 adopted effective December 2, 1998 (Supp. 98-4). Table 1 repealed by final rulemaking at 13 A.A.R. 528, effective April

7, 2007 (Supp. 07-1). New Table 1 made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-108. Repealed**

##### **Historical Note**

Adopted effective December 2, 1998 (Supp. 98-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

### **ARTICLE 2. OBTAINING, RENEWING, ACTIVATING OR INACTIVATING A LICENSE; EXAMINATION; CONTINUING EDUCATION REQUIREMENT; APPROVAL OF CONTINUING EDUCATION**

#### **R4-29-201. Activities that Require a License; General Provisions**

- A.** Unless exempt under A.R.S. § 32-2311, an individual who provides pest management services shall obtain an applicator license from the Commission. An applicator shall perform pest management services only on behalf of a business licensed by the Commission.
- B.** To obtain a license as a qualifying party, an individual shall also be licensed as an applicator.
- C.** A licensed business shall provide pest management services only if the licensed business employs at least one individual who holds a qualifying party license. A licensed business shall provide pest management services in a category only if the licensed business employs an individual who has an activated qualifying party or temporary qualifying party license in the category.
- D.** A licensed qualifying party or temporary qualifying party shall not qualify more than one licensed business. A licensed business may employ more than one licensed qualifying party.
- E.** An applicator or qualifying party shall provide pest management services only in the category for which the applicator or qualifying party is licensed. To provide pest management services in a new category, an applicator or qualifying party shall complete the license-broadening process described in R4-29-212.
- F.** Under A.R.S. § 32-2312(D), an applicant for licensure is required to be of good moral character. The Commission shall deny a license to an applicant determined not to be of good moral character. In determining whether an applicant is of good moral character, the Commission shall consider whether the applicant:
  1. Committed an act, which, if committed by a licensee, would be grounds for disciplinary action against the licensee;
  2. Has been convicted of a felony or a misdemeanor; or
  3. Cheated on a licensing examination.
- G.** The holder of a license issued by the Commission shall not assign or transfer the license.
- H.** An applicator license expires on May 31 except that a new applicator license that is issued in May is valid until May 31 of the following year.
- I.** A qualifying party or business license expires on December 31 except that a new qualifying party or business license issued in December is valid until December 31 of the following year.
- J.** If a licensee files a timely and complete renewal application, the existing license does not expire until the Commission issues a notice granting or denying renewal. If the Commission denies license renewal, the existing license does not expire until all administrative appeals are exhausted.

##### **Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7,

2007 (Supp. 07-1).

#### **R4-29-202. License Exemptions; Unlicensed Persons**

- A.** In addition to the exemptions in A.R.S. § 32-2311, a person is not required to be licensed by the Commission if:
  1. The person provides general information about a label or labeling, identifying or controlling a pest, integrated pest management, or use of an EPA- or Arizona-Department-of-Agriculture-registered pesticide, does not directly or indirectly charge for the information provided, and does not make an onsite recommendation; or
  2. The person performs sales work that does not include any of the tasks identified under A.R.S. § 32-2301 as comprising the business of structural pest control or structural pest control.
- B.** Even if not required to be licensed by the Commission, a person shall not misuse a pesticide or device. Misuse includes using, applying, handling, or storing a pesticide in a manner inconsistent with the label or labeling, or using a device for an unintended purpose as indicated by the labeling of the device.
- C.** An allegation that an unlicensed person misused a pesticide may be investigated by the Commission or the EPA and may be prosecuted by the EPA.
- D.** If a licensee fails to renew because the licensee is on active military duty but applies for renewal within 100 days of honorable separation from active military duty, the Commission shall process the renewal application as timely and not charge the penalty prescribed under R4-29-105.
- E.** Under A.R.S. § 32-2312, an unlicensed person employed by a business licensee may apply pesticides for a maximum of 90 days from the date of employment if the unlicensed person is supervised by a licensed applicator or qualifying party and the applicator or qualifying party providing supervision:
  1. Is licensed in the category for which supervision is provided;
  2. Provides immediate supervision while the unlicensed person performs wood-destroying insect control or fumigation, or uses a restricted-use pesticide; and
  3. Provides direct supervision while the unlicensed person performs pest management services not listed in subsection (E)(2).

##### **Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-203. Obtaining an Applicator License**

- A.** An applicant for an applicator license shall submit the following information to the Commission on a form obtained from the Commission:
  1. Full name;
  2. Applicator license number, if any;
  3. Physical address;
  4. Mailing address, if different from the physical address;
  5. Telephone number;
  6. Electronic mail address, if any;
  7. Date of birth;
  8. Social Security number;
  9. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:
    - a. A completed Criminal Conviction Supplement form that includes information regarding the charge, date,

- jurisdiction and disposition of conviction, and current status;
- b. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
- c. A complete set of fingerprints; and
- d. The fee for fingerprint processing;
- 10. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
- 11. Name of employer, if any;
- 12. Employer's business license number, if applicable;
- 13. Employer's telephone number, if applicable;
- 14. License category for which application is made; and
- 15. The applicant's dated signature affirming that the information provided is true and correct.
- B.** In addition to the form required under subsection (A), an applicant shall submit the fee specified in R4-29-105.
- C.** Under the authority at A.R.S. § 32-2304(B)(2), if the Commission determines it is in the best interest of the state, the Commission shall require an applicant to submit a complete set of fingerprints and the fee for fingerprint processing.
- D.** If the Commission determines that an applicant is eligible for licensure, the Commission shall notify the applicant that the applicant may schedule and take a licensing examination described under R4-29-205.
- E.** If the Commission determines there may be cause to deny a license to an applicant, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.
- F.** The Commission shall issue a license to an applicant who meets all of the qualifications in A.R.S. § 32-2312 and this Chapter and passes the licensing examinations. The license authorizes the applicator to provide pest management services until May 31 if the applicator is employed by a licensed business.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-204. Obtaining a Qualifying Party License

- A.** Before applying for a qualifying party license, an applicant shall hold an applicator license for each category in which a qualifying party license is sought and fulfill the practical experience requirement for each category.
- B.** An applicant for a qualifying party license shall submit the following information to the Commission on a form obtained from the Commission:
  - 1. Full name;
  - 2. Applicator license number;
  - 3. Qualifying party license number, if any;
  - 4. Physical address;
  - 5. Mailing address, if different from the physical address;
  - 6. Telephone number;
  - 7. Electronic mail address, if any;
  - 8. Date of birth;
  - 9. Social Security number;
  - 10. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:

- a. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status; and
- b. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
- 11. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
- 12. Name of employer, if any;
- 13. Employer's business license number, if applicable;
- 14. Employer's telephone number, if applicable;
- 15. License category for which application is made; and
- 16. The applicant's dated signature affirming that the information provided is true and correct.
- C.** In addition to the form required under subsection (B), an applicant shall submit:
  - 1. The fee specified in R4-29-105;
  - 2. Evidence of the hours of practical experience required under A.R.S. § 32-2314(C)(2) in each category for which the applicant seeks licensure. Evidence that is acceptable to the Commission includes:
    - a. A completed Verification of Practical Experience form that is signed by a business or qualifying party licensee or another person with first-hand knowledge of the applicant's experience and notarized;
    - b. Payroll records, invoices, route sheets, or calendars;
    - c. Letters from persons with first-hand knowledge of the applicant's experience; and
    - d. An official transcript from an educational institution at which the applicant completed relevant course work;
  - 3. A complete set of fingerprints; and
  - 4. The fingerprint processing fee.
- D.** The Commission shall send a written notice to an applicant for a qualifying party license regarding the date and time that the applicant is to appear at a Commission meeting for an evaluation of the applicant's practical experience and to be authorized to schedule and take the licensing examination described under R4-29-205. The applicant shall appear as noticed.
- E.** The Commission shall issue an inactive license to an applicant who meets all of the qualifications in A.R.S. § 32-2314 and this Chapter and passes the licensing examination. Before working as the qualifying party of a licensed business, the licensee shall activate the license.
- F.** An active qualifying party license authorizes the licensee to qualify one licensed business until December 31. A qualifying party licensee may qualify the one licensed business in each category in which the qualifying party is licensed.
- G.** If a qualifying party applicant whose application is closed under R4-29-107(B)(3) or (C) submits a new application under subsections (B) and (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (D) unless the applicant was convicted of a felony or misdemeanor during the time between applications.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-205. Licensing Examination for an Applicator or Qualifying Party Applicant**

- A.** Under A.R.S. §§ 32-2312(C) and 32-2314(C), taking and passing an examination is a condition for licensure as an applicator or qualifying party.
- B.** An applicant who has received notice from the Commission that the applicant is approved to take the licensing examination shall make arrangements to take the examination by contacting the Commission or the examination service or testing vendor with which the Commission has contracted.
- C.** To assist an applicant to prepare for the licensing examination, the Commission shall maintain a list of study materials on its web site and may provide an examination training class. An applicant may also take an examination training class from a private vendor.
- D.** The licensing examination measures knowledge and understanding of both general and category-specific information. To be licensed, an applicant shall score at least 75 percent on the general standards ("core") examination and the category-specific examination for each category in which the applicant seeks licensure.
- E.** Both the core and category-specific licensing examination for an applicator and qualifying party measure knowledge and understanding of the following content areas:
  - 1. Pesticide label and labeling and pesticide types and formulations;
  - 2. Pest identification, life cycles, and habits;
  - 3. Safety and environmental factors relating to the use, handling, and disposal of pesticides;
  - 4. Application techniques, calibration and dilution, and equipment types, uses, and maintenance; and
  - 5. Laws and rules.
- F.** The Commission or the examination service or testing vendor shall provide immediate, written notice to an applicant regarding whether the applicant passed a licensing examination.
- G.** An applicant shall not take the same examination more than once on the same day.
- H.** The Commission shall immediately close the application of an applicant that the Commission determines cheated on an examination.
- I.** If an application is closed under subsection (H), the score received on the examination is void.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-206. Obtaining a Business License**

- A.** An applicant for a business license to conduct pest management services shall submit the following information to the Commission on a form obtained from the Commission:
  - 1. About the qualifying party who will qualify the business:
    - a. Full name;
    - b. Physical address;
    - c. Mailing address, if different from the physical address;
    - d. Electronic mail address, if any;
    - e. Date of birth;
    - f. Social Security number;
    - g. Telephone number;
    - h. Qualifying party license number and applicator license number, if any;
    - i. License category of qualification; and
    - j. The dated signature of the qualifying party;
  - 2. About the business license applicant:
    - a. Full name;
    - b. Mailing address;
    - c. Electronic mail address, if any;
    - d. Telephone number;
    - e. Date of birth; and
    - f. Social Security number;
  - 3. About the business:
    - a. Business name;
    - b. Form of business organization and names of the following persons authorized to act on behalf of the business:
      - i. Owner if a sole proprietorship;
      - ii. Managing or general partner if a partnership;
      - iii. President, secretary, and statutory agent if a corporation;
      - iv. Manager or at least two members if a limited liability company;
      - v. Designated agent of an appointed or elected person or body if the state or a political subdivision; or
      - vi. Person authorized to make decisions for the business if any other type of business form;
    - c. Telephone number;
    - d. Fax number;
    - e. Physical address;
    - f. Mailing address, if different from physical address; and
    - g. Chemical storage address; and
  - 4. The business applicant's dated signature affirming that the information provided is true and correct.
- B.** In addition to the form required under subsection (A), an applicant shall submit:
  - 1. The fee specified in R4-29-105;
  - 2. A completed Business License Application Supplement that includes the following information about the pest management business:
    - a. A description of how the qualifying party will manage the business;
    - b. A description of how the qualifying party will supervise the pest management services provided by the business;
    - c. A description of plans to provide training for all licensed applicators employed by the business;
    - d. A description of how the business will comply with the financial responsibility requirements in A.R.S. § 32-2313;
    - e. The names of all individuals who own at least 10 percent of the business;
    - f. The name of the statutory agent of the business; and
    - g. If a corporation, the names of all corporate officers;
  - 3. The following information on a completed Commission insurance certificate if the applicant will fulfill the financial responsibility requirements by purchasing liability insurance or a surety bond:
    - a. Name, address, and telephone number of the insured;
    - b. Existing business licenses held by the applicant;
    - c. Name, address, and telephone number of the insurer;
    - d. Name, address, and telephone number of the insurance producer or broker;
    - e. Number of the insurance policy or surety bond, effective and expiration dates, limits, and deductible, if any;
    - f. The categories of work covered by the insurance or bond; and

- g. The dated signature and title of an agent of the insurer or producer or broker certifying that:
  - i. The company is authorized by the Arizona Department of Insurance to do business in Arizona;
  - ii. The insurance or bond has been issued to the insured for the period indicated;
  - iii. The insurance or bond complies with the Commission's statutes regarding coverage endorsements;
  - iv. The company will notify the Commission in writing within 30 days if the insurance or bond is cancelled, revoked, or falls below the legal limit or if the deductible exceeds \$10,000; and
  - v. The company will furnish information regarding the insurance or bond to the Commission upon request; and
- 4. A copy of the Articles of Incorporation, trade name certificate, partnership agreement, or other evidence of the form of business organization.
- C. The Commission shall deny use of a business license name that the Commission determines is similar to an existing business name and may cause a reasonable person to confuse the two businesses.
- D. If the Commission determines there may be cause to deny a license to an applicant, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.
- E. The Commission shall issue a business license to an applicant that the Commission determines is qualified under A.R.S. § 32-2313 and this Chapter. The business license, which is valid until December 31, authorizes the licensee to operate a structural pest control business in each category in which the licensee employs a qualifying party licensed in the category.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-207. Renewing an Applicator, Qualifying Party, or Business License

- A. The Commission shall mail a renewal form to a licensee at the licensee's address of record, provide access to a downloadable renewal form, or provide access to online renewal. Timely license renewal is the responsibility of the licensee. Failure to receive notice of renewal does not justify failure to renew.
- B. If a licensee's renewal application is not administratively complete before the license expiration date, the Commission shall require the licensee to pay the penalty prescribed at R4-29-105(B).
- C. Renewal applications are due as follows:
  - 1. For an applicator license, May 1;
  - 2. For a qualifying party license, December 1; and
  - 3. For a business license, December 1.
- D. To renew an applicator or qualifying party license, the licensee shall:
  - 1. Submit the following information to the Commission on a completed renewal form:
    - a. A change in mailing address, if any;
    - b. Electronic mail address, if any;
    - c. Telephone number;
    - d. For a qualifying party, a statement whether the licensee wants to renew or inactivate each category

in which the licensee is licensed. An applicator license cannot be inactivated by category but only in whole;

- e. Name of employer;
  - f. Name of business for which the qualifying party provides qualification;
  - g. A statement whether the licensee has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:
    - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
    - ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
    - iii. A complete set of fingerprints; and
    - iv. The fee for fingerprint processing;
  - h. A statement whether the licensee has had a license or permit to practice pest management denied, revoked, or suspended during the last 12 months and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and
  - i. The licensee's dated signature affirming that the licensee complied with the continuing education requirement under R4-29-215. If the licensee is renewing a license in inactive status, no continuing education is required; and
- 2. Submit the fee required under R4-29-105.
- E. To renew a business license, the licensee shall:
  - 1. Submit the following information to the Commission on a completed renewal form:
    - a. A change in mailing address, if any;
    - b. Electronic mail address, if any;
    - c. Telephone number;
    - d. A statement whether the licensee wants to renew an active or inactive license;
    - e. Name of the qualifying party in each category in which the business provides structural pest control services;
    - f. A statement that the licensee maintains the insurance or surety bond required by A.R.S. § 32-2313; and
    - g. The dated signature of the authorized representative of the business; and
  - 2. Submit the fee required under R4-29-105.
- F. If the Commission determines there may be cause to deny a renewal, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.
- G. An applicator, qualifying party, or business licensee that fails to submit a timely and complete renewal application shall not provide pest management services until the Commission provides written notice of the Commission's decision to grant or deny renewal.
- H. The Commission shall not renew a license that is expired for more than 30 days. The former licensee may apply for licensure as a new applicant.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-208. Obtaining a Temporary Qualifying Party License**

- A.** A licensed applicator who is employed by a business licensee may apply for a renewable, temporary qualifying party license if the qualifying party, who is not a temporary qualifying party, of the business has disassociated from the business within the last 45 days.
- B.** A temporary qualifying party applicant shall submit the following information to the Commission on a form obtained from the Commission:
1. About the business licensee:
    - a. Business name;
    - b. Business license number;
    - c. Physical address;
    - d. Mailing address, if different from the physical address;
    - e. Telephone number; and
    - f. Fax number;
  2. About the licensed applicator:
    - a. Full name;
    - b. Applicator license number;
    - c. Physical address;
    - d. Mailing address, if different from the physical address;
    - e. Telephone number;
    - f. Electronic mail address, if any;
    - g. Fax number;
    - h. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:
      - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
      - ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
      - iii. A complete set of fingerprints; and
      - iv. The fee for fingerprint processing;
    - i. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
    - j. License category for which application is made; and
    - k. The applicant's dated signature affirming that the information provided is true and correct.
- C.** In addition to the form required under subsection (B), an applicant shall submit:
1. The fee specified in R4-29-105;
  2. A written notice of disassociation from the qualifying party who previously qualified the business;
  3. A written request from the business licensee that an applicator licensed in the category in which the disassociating qualifying party qualified the business be granted a temporary qualifying party license. The Commission shall not issue a temporary qualifying party license to an applicator to qualify a business in a category different from the category in which the disassociating qualifying party qualified the business;
  4. A written statement from the business licensee that the business has not operated since the disassociation in the category for which the disassociated qualifying party qualified the business; and
  5. A written description of how the temporary qualifying party will:
    - a. Manage the pest management services provided by the business,
    - b. Supervise the pest management services provided by the business, and
    - c. Train and supervise all licensed and unlicensed applicators employed by the business.
- D.** The Commission shall issue a temporary qualifying party license to an applicant who is qualified under A.R.S. § 32-2314 and this Chapter. The temporary qualifying party license authorizes the licensee to qualify a licensed business for 60 days in each category in which the temporary qualifying party is licensed.
- E.** If a temporary qualifying party license expires, the business licensee qualified by the temporary qualifying party licensee shall not perform pest management services in the category for which the temporary qualifying party qualified the business.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-209. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

**R4-29-210. Inactivating or Activating an Applicator License**

- A.** To place a valid, active applicator license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:
1. Name;
  2. Applicator license number;
  3. Physical address;
  4. Mailing address, if different from the physical address;
  5. Electronic mail address, if any;
  6. Date of birth;
  7. Social Security number;
  8. Telephone number; and
  9. Dated signature of the licensee affirming that:
    - a. The information provided is true and correct; and
    - b. The licensee shall not perform pest management services in any category while the license is on inactive status.
- B.** An inactive license expires on May 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive applicator license.
- C.** To activate an inactive applicator license, the licensee shall submit to the Commission:
1. The following information on a form obtained from the Commission:
    - a. Name;
    - b. Applicator license number;
    - c. Categories in which the licensee is licensed;
    - d. Physical address;



- e. Mailing address, if different from the physical address;
  - f. Electronic mail address, if any;
  - g. Date of birth;
  - h. Social Security number;
  - i. Telephone number;
  - j. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all convictions have been reviewed by the Commission and if the answer is no, submit:
    - i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;
    - ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;
    - iii. A complete set of fingerprints; and
    - iv. The fee for fingerprint processing;
  - k. A statement whether the applicant has ever had a license or permit to practice structural pest control denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
    - l. Name of employer;
    - m. Employer's business license number;
    - n. Employer's telephone number; and
    - o. Dated signature of the licensee affirming that the information provided is true and correct;
  - 2. The fee required under R4-29-105; and
  - 3. Evidence described at R4-29-215(C) of completing six units of continuing education.
- D.** If the Commission determines there may be cause to deny activating an applicator license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-211. Inactivating or Activating a Qualifying Party License

- A.** To place a valid, active qualifying party license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:
1. Name;
  2. Qualifying party license number;
  3. Physical address;
  4. Mailing address, if different from the physical address;
  5. Electronic mail address;
  6. Date of birth;
  7. Social Security number;
  8. Telephone number;
  9. The license categories to be inactivated;
  10. Employer's name and telephone number; and
  11. Dated signature of the licensee affirming that:
    - a. The information provided is true and correct; and
    - b. The licensee shall not act to qualify a business in an inactive category without activating the license in that category.

- B.** An inactive qualifying party license expires on December 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive qualifying party license.
- C.** To activate an inactive qualifying party license and qualify a new business, the qualifying party licensee and the new business applicant shall:
  1. Comply with R4-29-206,
  2. Submit both the fee required to activate a qualifying party license and apply for a business license, and
  3. Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.
- D.** To activate an inactive qualifying party license and qualify an existing business, the qualifying party licensee and the business licensee shall:
  1. Comply with R4-29-206,
  2. Submit the fee required to activate a qualifying party license, and
  3. Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.
- E.** If the Commission determines there may be cause to deny activating a qualifying party license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-212. Broadening an Applicator or Qualifying Party License

- A.** To broaden an applicator license, the licensed applicator shall:
1. Submit to the Commission the license application form described in R4-29-203 and indicate on the form the category in which broadening is sought,
  2. Submit the fee required under R4-29-105(A)(1)(b), and
  3. Take and pass the licensing examination described in R4-29-205 for the specific category in which broadening is sought.
- B.** A qualifying party is eligible to broaden the qualifying party license only if the qualifying party holds an applicator license in the category in which broadening is sought.
- C.** To broaden a qualifying party license, the licensed qualifying party shall:
1. Submit to the Commission the license application form described in R4-29-204 and indicate on the form the category in which broadening is sought,
  2. Submit the fee required under R4-29-105(A)(2)(b),
  3. Submit the evidence required under R4-29-204(C)(2) for the category in which broadening is sought,
  4. Appear at a Commission meeting for an evaluation of the qualifying party's practical experience for the category in which broadening is sought, and
  5. Take and pass the licensing examination described in R4-29-205 for the specific category in which broadening is sought.
- D.** If a qualifying party whose application for license broadening is closed under R4-29-107(B)(3) or (C) submits a new application under subsection (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection

## Office of Pest Management

(C)(4) unless the applicant was convicted of a felony or misdemeanor during the time between applications.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-213. Branch Office Registration**

- A.** A business licensee that wishes to do business from a branch office shall register the branch office with the Commission before doing any business from the branch office.
- B.** To register a branch office, the business licensee shall complete a form, that is available on the Commission's web site, and provide the following information:
  - 1. About the business:
    - a. Name;
    - b. License number;
    - c. Telephone and fax numbers;
    - d. Physical address;
    - e. Mailing address, if different from physical address; and
    - f. Electronic mail address, if any;
    - g. Chemical storage address;
  - 2. About the branch office:
    - a. Name of manager;
    - b. Manager's applicator license number;
    - c. Telephone and fax numbers;
    - d. Physical address;
    - e. Mailing address, if different from physical address;
    - f. Electronic mail address, if any;
    - g. Chemical storage address; and
    - h. The pest management categories in which the branch office will do business;
  - 3. About the qualifying party:
    - a. Name;
    - b. Date of birth;
    - c. Mailing address;
    - d. Telephone number;
    - e. Electronic mail address, if any; and
    - f. Qualifying-party license number; and
  - 4. The dated signature of an authorized representative of the licensed business.
- C.** In addition to the form required under subsection (B), the business licensee shall submit the fee required under R4-29-105.
- D.** A branch office shall be owned by the business licensee. A branch office shall do business in the name of the licensed business.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-214. Change in a Business Licensee**

- A.** If a sole proprietor business licensee dies or becomes disabled, the spouse of the sole proprietor business licensee may apply to the Commission to have the business license transferred to the spouse. The Commission shall transfer the business license to the spouse of the dead or disabled sole proprietor business licensee if the spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer warranties provided by the business.

- B.** Except as provided in subsection (A), a business licensee shall stop providing pest management services and apply for a new business license immediately after the owner of a sole proprietorship changes.
- C.** If a business licensee changes the name or form of the business, the licensee shall provide the following information on a Business Name or Entity Change Application submitted to the Commission within 30 days of the change:
  - 1. Business ownership status;
  - 2. Name of business entity;
  - 3. Physical address of business entity;
  - 4. Mailing address of business entity, if different from the physical address;
  - 5. Current business name;
  - 6. Business license number;
  - 7. Telephone number;
  - 8. Fax number;
  - 9. Physical address of business;
  - 10. Mailing address of business, if different from the physical address;
  - 11. Electronic mail address, if any;
  - 12. Chemical storage address of business;
  - 13. New name requested, if any;
  - 14. Reason for name change, if applicable;
  - 15. Copy of the Registered Trade Name Certificate showing the new name or amended Articles of Organization or Incorporation; and
  - 16. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-215. Continuing Education Requirement for an Applicator or Qualifying Party**

- A.** An applicator or qualifying party shall obtain six units of continuing education within the 13 months before a license renewal application is submitted under R4-29-207.
- B.** Continuing education units used to renew an applicator license may be used to renew the applicator's qualifying party license if the continuing education units were obtained within 13 months before the qualifying party license renewal application is submitted. Continuing education units used to renew a qualifying party license may be used to renew the qualifying party's applicator license if the continuing education units were obtained within 13 months before the applicator license renewal application is submitted.
- C.** To document attendance at a continuing education, an applicator or qualifying party shall obtain a verification of attendance from the continuing education provider that includes:
  - 1. The applicator's or qualifying party's name;
  - 2. The applicator's or qualifying party's license number;
  - 3. The name of the continuing education;
  - 4. The name of the continuing education provider;
  - 5. The date of the continuing education; and
  - 6. The number of continuing education units obtained.
- D.** An applicator and qualifying party shall maintain a verification of attendance for one year and make the verification of attendance at a continuing education available for review by the Commission upon request.
- E.** An applicator or qualifying party may earn one unit of continuing education each year for attending a regularly scheduled meeting of the Commission in its entirety. To ensure receipt of a verification of attendance, an applicator or qualifying party

shall contact the Commission staff before attending a Commission meeting and sign the meeting sign-in sheet.

- F.** An applicator or qualifying party who teaches a continuing education may earn one unit of continuing education for each hour taught, not more than once during a calendar year.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-216. Requirements for Approval of Continuing Education**

- A.** Only continuing education approved by the Commission may be used to satisfy the continuing education requirement in R4-29-215. The Commission shall approve a continuing education only if it addresses:
1. Pesticide labels and labeling;
  2. Safety, environmental factors, and consequences;
  3. Pesticide use and disposal;
  4. Laws and rules related to pest management and the business of pest management;
  5. Application techniques;
  6. Calibration and dilution;
  7. Equipment;
  8. Pest identification;
  9. Life cycles and habits;
  10. Calculation and measurements;
  11. New pest management technologies; or
  12. Licensee responsibilities.
- B.** An applicator, qualifying party, or continuing education provider may apply to the Commission for approval of continuing education.
- C.** A person applying for approval of continuing education shall submit the following to the Commission:
1. A continuing education approval application form, obtained from the Commission, that provides the following information:
    - a. Type of continuing education;
    - b. Name of continuing education provider;
    - c. Address and telephone number of continuing education provider;
    - d. Topic of continuing education;
    - e. Pest management category of continuing education;
    - f. Date, time, and location of the continuing education, if known at the time of the application. If this information is not known at the time of application, the person applying for approval of the continuing education shall submit this information when it is known;
    - g. Number of continuing education units;
    - h. Previous continuing education number, if any;
    - i. Level and type of instruction;
    - j. Description of learning activities;
    - k. Frequency at which the continuing education will be offered;
    - l. Method of proof of attendance in addition to online reporting; and
    - m. Dated signature of applicant;
  2. An instructor application or resumé that includes information about the instructor's education and experience relevant to pest management;
  3. An outline of the subject matter to be covered in the continuing education that demonstrates the continuing education will address at least one of the topics identified in subsection (A);
  4. A copy of any material that will be used or provided to those who attend;

5. A copy of an examination, if any, used to measure learning; and
6. A copy of promotional materials, if any.

- D.** The provider of an approved continuing education shall:

1. Provide a verification of attendance that meets the requirements of R4-29-215(C) to each individual who completes the continuing education;
2. Enter attendance information using the Commission's online continuing education reporting tool within 10 days after the date of the continuing education; and
3. Maintain a copy of the verification of attendance or original sign-in sheet that lists the attendees' names and license numbers for two years.

- E.** Unless otherwise indicated in the notice of approval, the Commission's approval of a continuing education is valid for two years.

- F.** Approval of continuing education is not renewable. To reapply for approval of a continuing education, a person shall comply with the requirements of subsection (C).

- G.** The provider of an approved continuing education shall provide notice and updated information to the Commission within 10 days after the subject matter or instructor of the approved continuing education changes.

- H.** To evaluate the effectiveness of a continuing education, the Commission may monitor an approved continuing education. Upon request by the Commission, a continuing education provider shall provide the Commission with the date and time that approved continuing education will be provided.

- I.** The Commission shall revoke its approval of continuing education if the Commission determines that the continuing education fails to meet the standards for approval listed in this Section, the continuing education provider provided false information on its application or false information pertaining to attendance, or the continuing education provider fails to comply with the Commission's statutes and this Chapter.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

### **ARTICLE 3. APPLICATOR DUTIES AND RESPONSIBILITIES**

#### **R4-29-301. Compliance with Commission Monitoring**

- A.** For the purpose of monitoring the provision pest management services, the Commission may make a written request of an applicator for a list of the time and location of pest management services that the applicator is scheduled to provide on a specified date that is at least 24 hours from the time of the request.
- B.** The applicator from whom information is requested under subsection (A) shall make the information available to the Commission within 24 hours after the request is made. The applicator may make the information available at the Commission office by hand delivery or fax or at another location acceptable to the Commission.
- C.** If an applicator cannot timely comply with a request made under subsection (A), the applicator shall immediately provide written notice to the Commission, indicate the reason for non-compliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- D.** The Commission shall:
1. Modify the request made under subsection (A) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or

2. Provide additional time to respond to the request made under subsection (A) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- E.** Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-302. Providing Notice to Customers

- A.** An applicator shall provide a written notice to a customer for whom the applicator provides a pest management service that:
1. Identifies the pesticide used;
  2. Provides all information required by the label or labeling;
  3. Provides all information required by local ordinance; and
  4. Includes the following statement printed in at least an eight-point font: "Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated, or aerated. For more information, contact [business licensee's name and business license number issued by the Commission] at [business licensee's telephone number]."
- B.** An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § 32-2307.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-303. Performing a Wood-destroying Insect Inspection

- A.** Only an applicator licensed in both categories B-2 and B-8 and who has received the training required under A.R.S. § 32-2324(A) may perform a wood-destroying insect inspection.
- B.** An applicator performing a wood-destroying insect inspection shall inspect all areas of a structure that are visible or accessible at the time of the inspection.
- C.** An applicator performing a wood-destroying insect inspection may exclude from inspection an area that is permanently covered by a floor covering, wall covering, or built-in appurtenance such as a bookcase, cabinet, appliance, equipment, or furniture or that would require removing or marring finish work or moving furniture, appliances, or equipment. The applicator shall note on the WDIIR all areas that are not inspected and the reason the areas are not inspected.
- D.** An applicator performing a wood-destroying insect inspection shall inspect all areas where there is evidence of current or previous infestation and where a condition conducive to infestation exists. A condition conducive to infestation includes:
1. Faulty grade level. If a structure contains a slab or floor that is on or near grade, the existing earth level is considered grade level;
  2. Inaccessible sub-area such as an area with less than 18 inches of clear space between the bottom of a floor joist and grade level;
  3. Excessive cellulose debris. Cellulose debris is excessive when:
    - a. The debris can be raked into a pile of at least one cubic foot,

- b. A stump or wood imbedded in a footing of the structure is in contact with earth, or
  - c. Firewood or a lumber pile is within six inches of the structure;
4. Earth-to-wood contact, which involves wood that is part of a structure or that is attached to or securely abuts the structure and is in contact with the ground;
  5. Excessive moisture or evidence of a moisture condition in or around a structure; or
  6. Insufficient ventilation. Ventilation is insufficient when there are fewer than two areas to permit cross ventilation and prevent excessive moisture.
- E.** To verify whether a corrective treatment was performed or a condition conducive to infestation was corrected, an applicator may conduct a supplemental inspection within 30 days after an original inspection. An inspection conducted more than 30 days after an original inspection is not a supplemental inspection.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-304. Using Pesticides and Devices

- A.** An applicator shall use only a pesticide that is currently registered for use by both the EPA and the Arizona Department of Agriculture.
- B.** An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:
1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling;
  2. Provides a pest management service or handles a pesticide without wearing clothing and using the personal protective equipment required by the label or labeling to protect the applicator from pesticide exposure;
  3. Uses a pesticide in a manner that causes the pesticide to come into contact with a person, other than the applicator, animal, or property, other than the property receiving the pest management service, unless the contact results from an accident beyond the reasonable control of the applicator;
  4. Uses a pesticide in a food-handling establishment that the label or labeling recommends not be used in a food-handling establishment; and
  5. Uses a pesticide in a manner that contaminates food, feed, or drugs or equipment used to prepare or serve food, feed, or drugs.
- C.** While mixing a pesticide with water, an applicator shall protect the water supply from back-siphoning of the pesticide mixture. An applicator shall not add water to a tank in which a pesticide is mixed or from which a pesticide is dispensed by protruding a fill-pipe or hose connection into the tank. An applicator shall ensure that a fill-pipe or hose connection terminates at least two inches above the tank fill opening or is equipped with an effective anti-siphoning device.
- D.** An applicator shall ensure that all equipment, including auxiliary equipment such as a hose or metering device, used for mixing or applying a pesticide is in good repair and operating properly.
- E.** An applicator shall apply, store, or dispose of a pesticide designated by the EPA as restricted use only if the applicator is licensed, or working under the immediate supervision of a

licensee licensed, in the category for which the restricted-use pesticide is applicable.

- F. Unless consistent with the label and labeling, an applicator shall not apply a granulated pesticide that bears the statement "Keep out of the reach of children" in a manner that leaves exposed granules on a patio, step, porch, sidewalk, driveway, or floor.
- G. An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling and in a manner that minimizes exposure to humans and other non-target organisms. If a pesticide spill may endanger humans, an applicator shall clean the pesticide spill in accordance with recommendations by health and medical personnel and local authorities.
- H. An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the Arizona Department of Agriculture and the pesticide labeling only if the applicator has both the Special Local Need registration and labeling in the applicator's possession at the time of application.
- I. If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the Commission's statutes or this Chapter, an applicator shall comply with the pesticide manufacturer's recommendation and the general industry practice prevailing in the community at the time the pest management service is provided.
- J. If there is a conflict between any provision in this Section and labeling instructions or a local ordinance, an applicator shall follow the more specific instruction.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-305. Performing Wood-destroying Insect Control

- A. An applicator shall not perform wood-destroying insect control or fumigation unless the applicator is licensed in Category B2 or B4, respectively, or working under the immediate supervision of an applicator or qualifying party who is licensed in Category B2 or B4, respectively.
- B. An applicator shall not perform wood-destroying insect control until the business licensee that employs the applicator ensures that:
  - 1. A wood-destroying insect inspection is performed under R4-29-303 by a licensed applicator qualified under A.R.S. § 32-2323(E),
  - 2. A treatment proposal is prepared on a form approved by the Commission and contains the information required under A.R.S. § 32-2323(B) and (C), and
  - 3. The treatment proposal is delivered to the person requesting the proposal.
- C. An applicator shall apply a termiticide only in the quantity, strength, and dosage, and in the manner prescribed on the termiticide label unless otherwise specified by this Chapter or a Commission order.
- D. Pretreatment for commercial or residential construction.
  - 1. Unless a contract between the business licensee and customer specifies additional requirements, an applicator shall:
    - a. Establish a horizontal barrier of termiticide before any concrete slab under roof is poured or in conjunction with establishing the footings and supports for a raised foundation; and

- b. Establish a vertical barrier of termiticide in all critical areas visible during the time of pretreatment. An area is critical at the time of pretreatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
  - i. A penetration or protrusion through the slab;
  - ii. An observable preset for crack or joint control;
  - iii. A formed-up change of grade level;
  - iv. Abutting slabs;
  - v. A bath trap or tear-out;
  - vi. The interior of a foundation or stem wall; or
  - vii. A pier, pillar, pipe, or other object that extends from the soil to the structure.
- 2. Except as specified in subsection (D)(3) and unless the termiticide label requires more, an applicator shall treat all critical areas during a pretreatment, including the final-grade portion of a pretreatment, at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth from grade level to the footer. If there is no adjacent footer, the applicator shall treat to a depth of one foot.
- 3. Unless the termiticide label requires more, an applicator is not required to treat a critical area during a pretreatment beyond a depth of four feet if:
  - a. Treating beyond a depth of four feet will, or reasonably may, cause an off-site application;
  - b. Access to the footer is not possible because of its distance below grade; or
  - c. Treating beyond a depth of four feet will, or reasonably may cause an environmental contamination.
- 4. If an applicator does not treat a critical area during a pretreatment beyond a depth of four feet because the applicator determines that one of the exceptions in subsection (D)(3) is applicable, the applicator shall:
  - a. Apply the amount of termiticide possible without causing an off-site application or environmental contamination, and
  - b. Include evidence of the exception in the treatment record. Evidence of the exception may include:
    - i. A photograph of the interior grade and adjacent location that would or reasonably might be contaminated by treating beyond a depth of four feet,
    - ii. A photograph of the site after the pretreatment but before concrete placement,
    - iii. A written statement from the general contractor concerning the fill material and compaction rating,
    - iv. A written statement from the concrete subcontractor describing the depth of the footer as greater than four feet, or
    - v. A written compaction rating statement from the engineering subcontractor.
- 5. If an applicator is advised before concrete is poured that a treated area is disturbed and the continuous horizontal or vertical chemical barrier established under subsection (D)(1) is broken, and if the applicator is provided an opportunity to re-treat the disturbed area, the applicator shall re-treat the disturbed area and re-establish a continuous horizontal and vertical chemical barrier.
- 6. Immediately after completing a pretreatment, an applicator shall securely affix a tag to the pretreatment site. The applicator shall ensure that the tag is visible, readily available for inspection, and unlikely to be covered with concrete or soil. If there is a contractor's permit or inspection board at the pretreatment site, the applicator may

affix the tag to the board. The applicator shall ensure that the tag contains the following information about the pretreatment:

- a. Name of business licensee;
  - b. Address of business licensee;
  - c. Telephone number of business licensee;
  - d. License number of business licensee;
  - e. Location or address of project;
  - f. Date of pretreatment application;
  - g. Time that application was started (not time that applicator arrived at the site);
  - h. Time that application ended (not time that applicator left the site);
  - i. Trade name of pesticide used;
  - j. Percentage of active ingredient in the pesticide used;
  - k. Number of gallons of chemical preparation applied;
  - l. Square footage of area treated;
  - m. Linear footage of area treated;
  - n. Type of slab construction;
  - o. Name of applicator; and
  - p. License number of applicator or, if not licensed, the name and license number of the applicator or qualifying party providing immediate supervision.
7. If it is necessary for an applicator to abandon a pretreatment site before completing the treatment, the applicator shall complete and affix the tag described in subsection (D)(6), representing the work completed, and after marking the tag "TREATMENT INCOMPLETE."
  8. If a contractor requires a copy of the tag described in subsection (D)(6) for the customer's file, an applicator shall prepare and provide the contractor with a duplicate tag that is clearly marked "DUPLICATE."
  9. An applicator shall leave a record of the final-grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record with the property agent. The applicator shall ensure that the record of the final-grade treatment contains the information listed in subsection (D)(6) except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.

**E. New-construction treatment for commercial or residential construction.**

1. Unless specifically precluded by the termiticide label, an applicator shall treat all critical areas visible at the time of a new-construction treatment. An area is critical at the time of a new-construction treatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
  - a. A penetration or protrusion through the slab;
  - b. An observable crack or joint;
  - c. Abutting slabs;
  - d. A bath trap or tear-out;
  - e. The interior of a foundation or stem wall; or
  - f. A pier, pillar, pipe, or other object that extends from the soil to the structure.
2. An applicator shall comply with subsections (D)(2) through (D)(4) when treating a critical area during a new-construction treatment except that the treatment shall be at the labeled rate rather than at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth.
3. If an applicator is advised that a treated area is disturbed, the applicator shall re-treat the disturbed area.
4. Immediately after completing a new-construction treatment, an applicator shall securely affix a tag to the new-construction site in the manner described in subsection

(D)(6). The applicator shall ensure that the tag contains the information listed in subsection (D)(6).

5. An applicator shall comply with subsections (D)(7) through (D)(9) when performing a new-construction treatment.

**F. Post-construction treatment for commercial or residential construction.**

1. If an applicator uses a drilling and injecting application method for a post-construction treatment, the applicator shall space the treatment holes in each treated area no more than 24 inches apart or in accordance with the termiticide label, whichever is more restrictive. If an applicator determines that a structural feature makes it necessary to space treatment holes more than 24 inches apart, the applicator may space the treatment holes more than 24 inches apart if the greater distance is within the limits on the termiticide label.
2. If the critical areas of a structure received neither a pretreatment nor a new-construction treatment, an applicator shall treat all critical areas visible at the time of post-construction treatment before issuing a builder's warranty regarding subterranean termite treatment. An area is critical at the time of a post-construction treatment if it is an area listed in subsection (D)(1)(b), a change of grade, or a crack greater than 1/16th of an inch.
3. After completing a post-construction treatment using a drilling and injection application method, an applicator shall securely patch all treatment holes, including those in an unfinished basement, enclosed porch, garage, or workshop, with a material that is nonporous and non-cellulose.

- G.** An applicator who performs a pretreatment or new-construction treatment shall ensure that a copy of the information recorded on a tag required under subsection (D) or (E) is provided to the business licensee for inclusion in the business licensee's service records.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-306. Storing and Disposing of Pesticides and Devices**

- A.** An applicator shall store and dispose of a pesticide or device in a manner consistent with its label and labeling.
- B.** An applicator shall store a pesticide in a closed container that is free from corrosion, leakage, or pesticide contamination and properly labeled.
- C.** An applicator shall ensure that a service container bears a durable and legible label with the following information:
1. The name, address, and telephone number of the business licensee;
  2. The common chemical or trade name of the principal active ingredients;
  3. The EPA registration number;
  4. The strength of the concentrate or dilution expressed as a percentage of active ingredients;
  5. Any signal word required on the label; and
  6. The phrase "KEEP OUT OF REACH OF CHILDREN."
- D.** An applicator shall not place words or markings on a service container or on the label affixed to the service container that are unrelated to the pesticide in the service container, except for markings related to a method of tracking the product.
- E.** If the label affixed to a pesticide container becomes lost or damaged, an applicator shall attach an approved specimen label to the pesticide container.

- F. An applicator shall replace a damaged container, other than a fumigant container, with an identically labeled container or a properly labeled service container.
  - G. Application equipment from which a pesticide is directly discharged and in which the pesticide is not stored is not subject to the labeling requirements of this Section.
  - H. An applicator shall not store a pesticide in the same room or common air space where food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products are stored.
  - I. An applicator shall not store a pesticide in a container that was used for food, beverage, feed, drugs, or cosmetics, or which by size, shape, or marking could be confused as being a food, beverage, feed, drug, or cosmetic.
  - J. An applicator shall not store a fumigant within a residential structure.
  - K. An applicator shall ensure that a pesticide in an original or service container, an empty pesticide container that has not been prepared for disposal in accordance with its label, or a returnable or reusable pesticide container is kept in a locked storage space when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
  - L. An applicator shall ensure that a pesticide in portable application equipment is kept locked when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
  - M. To prevent damage during transit, an applicator shall ensure that a pesticide container is in a locked storage space while the pesticide container is transported on a service vehicle.
- 5. Name and license number of the applicator making the pesticide purchase record or name of the business licensee.
  - D. Pesticide disposal records. An applicator shall make a record of each restricted-use pesticide disposed, sold, lost, or otherwise relinquished. The applicator shall include the following information in the pesticide disposal record:
    - 1. Date of disposal;
    - 2. Trade name or common name of pesticide;
    - 3. EPA registration number of pesticide;
    - 4. Quantity of pesticide disposed;
    - 5. Name of the active ingredient in the pesticide disposed;
    - 6. Percent active ingredient in the pesticide disposed;
    - 7. Method of disposal;
    - 8. Location and type of disposal site or service; and
    - 9. Name and license number of the applicator making the pesticide disposal record or name of the business licensee.
  - E. WDIIR. An applicator who completes a wood-destroying insect inspection shall:
    - 1. Complete a WDIIR, using a form approved by the Commission. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the Commission-approved form;
    - 2. Submit an original WDIIR to the business licensee within seven days after completing the wood-destroying insect inspection;
    - 3. Submit a supplemental WDIIR to the business licensee within seven days after completing a supplemental wood-destroying insect inspection to verify that a corrective treatment was performed or a condition conducive was corrected. The applicator shall include the original inspection number on the supplemental WDIIR;
    - 4. If required by another state or federal agency, complete another WDIIR in addition to but not instead of the Commission-approved WDIIR; and
    - 5. Ensure that the following information is included on the WDIIR:
      - a. Name, address, telephone number, and license number of business licensee. This information may be pre-printed on the WDIIR;
      - b. Date of wood-destroying insect inspection, and the WDIIR number;
      - c. Purpose of the inspection report;
      - d. Whether the report is from an original or supplemental inspection;
      - e. Name of property owner or seller;
      - f. Address of inspected property;
      - g. Inspected and un-inspected structures at the site;
      - h. Areas of the structure not inspected because they were obstructed or inaccessible and the cause of the obstruction or inaccessibility;
      - i. Whether visible evidence of wood-destroying insects is observed;
      - j. Whether visible evidence of infestation from wood-destroying insects is observed and if so, the date on which a proper control measure is performed, if applicable;
      - k. Whether visible damage from wood-destroying insects is observed and if so, the insect causing the damage and the areas in which the damage is observed;
      - l. Whether visible evidence of previous treatment is observed and if so, the nature of the evidence;
      - m. If damage from wood-destroying insects is observed, whether or when the damage will be cor-

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-307. Applicator Recordkeeping

- A. An applicator shall timely make all records required by law and provide the records to the business licensee that employs the applicator. Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.
- B. Service records. An applicator shall make a record of each pest management service provided. The applicator shall include the following information in the service record:
  - 1. Name and address of the customer;
  - 2. Specific site at which a pesticide was applied;
  - 3. Date of service;
  - 4. Target pest or purpose of service;
  - 5. Trade name or common name of pesticide applied;
  - 6. EPA registration number of any restricted-use pesticide applied;
  - 7. Percent active ingredient in the pesticide as applied;
  - 8. Amount of pesticide applied; and
  - 9. Name and license number of the applicator or if the applicator is unlicensed, name of the unlicensed applicator and the name and license number of the applicator providing supervision.
- C. Pesticide purchase records. An applicator shall make a record of each restricted-use pesticide purchased or otherwise acquired. The applicator shall include the following information in the pesticide purchase record:
  - 1. Date of purchase or acquisition;
  - 2. Trade name or common name of pesticide;
  - 3. EPA registration number of pesticide;
  - 4. Quantity of pesticide purchased or acquired; and

- rected and whether the damage will be corrected by the business licensee or another company;
- n. Visible conditions conducive to infestation by wood-destroying insects;
  - o. Diagram or graph of the structure clearly indicating wood-destroying insects, damage, conducive conditions observed, and areas where further inspection is recommended, and a statement or indication on the diagram or graph clearly identifying inaccessible areas; and
  - p. Dated signature and license number of the individual making the inspection. The individual making the inspection shall sign the WDIIR by hand or electronically and shall not use a signature stamp or allow another individual to affix the signature.

- F.** Wood-destroying insect treatment proposal. An applicator who is qualified under A.R.S. § 32-2323(B) and (E) shall complete a wood-destroying insect treatment proposal using a form approved by the Commission and provide a copy of the proposal to the person requesting the proposal and the business licensee.
- G.** Upon written request by the Commission, an applicator shall make the records required under this Section available for review by the Commission. The applicator from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The applicator shall make the records available at the Commission office by hand delivery, electronic mail, or fax. The applicator shall be available to interpret the submitted records if requested by the Commission.
- H.** If an applicator cannot timely comply with a request made under subsection (G), the applicator shall immediately provide written notice to the Commission, indicate the reason for non-compliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- I.** The Commission shall:
1. Modify the request made under subsection (G) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
  2. Provide additional time to respond to the request made under subsection (G) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- J.** Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-308. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-309. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-310. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-311. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-312. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-313. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-314. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-315. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-316. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-317. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-318. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-319. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-320. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).



**ARTICLE 4. REPEALED****R4-29-401. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-402. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-403. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-404. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-405. Reserved****R4-29-406. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-407. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-408. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-409. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-410. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-411. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-412. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-413. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-414. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-415. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-416. Expired****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 1483, effective January 31, 2001 (Supp. 01-1).

**R4-29-417. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**R4-29-418. Repealed****Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

**ARTICLE 5. QUALIFYING PARTY DUTIES AND RESPONSIBILITIES****R4-29-501. Compliance with Applicator Duties and Responsibilities**

A qualifying party shall comply with every provision in Article 3 regarding applicator duties and responsibilities.

**Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

**R4-29-502. Supervising an Applicator**

- A. A qualifying party shall ensure that every applicator, whether licensed or unlicensed, is trained and equipped to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.
- B. A qualifying party shall provide the supervision necessary for an applicator, whether licensed or unlicensed, to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.

- C. A qualifying party shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual licensed in the category applicable to the pesticide being used, applied, stored, or disposed.
- D. A qualifying party shall ensure that immediate supervision, which requires supervision by a licensed applicator who is physically present, is provided when an unlicensed applicator applies a pesticide for wood-destroying insect control, provides a fumigation service, or applies a restricted-use pesticide. A qualifying party shall ensure that a licensed applicator provides immediate supervision to only one unlicensed applicator at a time.
- E. In circumstances other than those described in subsection (D), a qualifying party shall ensure that direct supervision, which does not require a supervising licensed applicator to be physically present, is provided. A qualifying party shall ensure that a licensed applicator providing direct supervision considers the potential danger to the public or environment if the unlicensed applicator misuses a pesticide. A qualifying party shall ensure that a licensed applicator providing direct supervision instructs the unlicensed applicator in the following areas and has written evidence that the instruction was provided and understood:
  1. Proper loading, mixing, applying, storing, and disposing of the pesticide;
  2. Use of required safety equipment; and
  3. Method and means by which to contact the supervisor immediately.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-503. Qualifying a Business License

A qualifying party shall qualify only one business license at a time. A qualifying party may qualify the one business license in each category of pest management in which the qualifying party has an active license.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-504. Qualifying Party Management

- A. A qualifying party shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and this Chapter and label and labeling directions.
- B. A qualifying party who supervises the use, application, storage, or disposal of a pesticide shall hold an applicator license in the category applicable to the pesticide being used, applied, stored, or disposed.
- C. A qualifying party shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A qualifying party shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.
- D. A qualifying party shall ensure that an applicator employed by the business licensee has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the Commission's stat-

utes and this Chapter. The qualifying party shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.

- E. A qualifying party shall be readily available to an applicator employed by the business licensee while the applicator provides pest management services.
- F. To be active in the management of the licensed business that the qualifying party is qualifying, a qualifying party shall be physically present at the primary business office at least once every 30 days and ensure that all of the following are done:
  1. Determine pesticide use by reviewing records of pesticide acquisitions, storage, disposal, and current inventory;
  2. Review the pesticide inventory, including pesticides stored on a service vehicle, to determine compliance with labels, labeling, and the Commission's statutes and rules;
  3. Review the training, supervision, and equipping of applicators employed by the business licensee to determine whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the Commission's statutes and rules;
  4. Review personnel records to determine whether an applicator employed by the business licensee is licensed in all applicable categories within the time-frames specified by A.R.S. § 32-2312;
  5. Review office records and recordkeeping procedures to determine compliance with required recordkeeping and reporting; and
  6. Ensure that any deficiency noted when the responsibilities listed in subsections (F)(1) through (F)(5) are performed is corrected.
- G. A qualifying party shall develop a written plan that specifies how the duties and responsibilities of the qualifying party are to be fulfilled if the qualifying party is absent or unavailable for any reason. The qualifying party shall ensure that the plan is implemented when the qualifying party is absent or unavailable.
- H. A qualifying party shall not delegate the responsibility to be physically present at least every 30 days at the primary business office of the licensed business the qualifying party is qualifying unless the qualifying party submits written documentation to the Commission from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the qualifying party and is of the opinion that the qualifying party is unable to fulfill the responsibility to be physically present at least every 30 days.
- I. Notice to Commission of an incident. A qualifying party shall determine whether the business licensee qualified by the qualifying party complied with R4-29-605(C). If the qualifying party determines that the business licensee has yet to comply with R4-29-605(C), the qualifying party shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:
  1. Death or illness of an individual or animal;
  2. Contamination of food, feed, drugs, or water supply;
  3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
  4. Contamination of the environment that results in evacuation of the area.

#### Historical Note

Adopted effective December 24, 1992 (Supp. 92-4). Section repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1). New Section made by

final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-505. Qualifying Party Recordkeeping**

- A.** In addition to ensuring that the records required under R4-29-307 are made, a qualifying party shall ensure that records are made and maintained of the training, supervision, and equipment provided to an applicator. Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.
- B.** Upon written request by the Commission, a qualifying party shall make the records required under this Section available for review by the Commission. The qualifying party from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The qualifying party shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The qualifying party shall be available to interpret the submitted records if requested by the Commission.
- C.** If a qualifying party cannot timely comply with a request made under subsection (B), the qualifying party shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- D.** The Commission shall:
  1. Modify the request made under subsection (B) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
  2. Provide additional time to respond to the request made under subsection (B) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- E.** Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **Appendix A. Repealed**

#### **Historical Note**

Adopted effective December 24, 1992 (Supp. 92-4).  
Appendix A repealed by final rulemaking at 13 A.A.R. 528, effective April 7, 2007 (Supp. 07-1).

### **ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES**

#### **R4-29-601. Compliance with Applicator Duties and Responsibilities**

A business licensee shall comply with every provision in Article 3 regarding applicator duties and responsibilities. A business licensee shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and rules and label and labeling directions.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-602. Reserved**

#### **R4-29-603. Supervision of Qualifying Party**

A business licensee shall ensure that a qualifying party of the business licensee receives the supervision and training that the qualify-

ing party requires to comply fully with the Commission's statutes and rules and label and labeling directions.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-604. Qualifying Party Required**

A business licensee shall employ a qualifying party in each category of pest management in which the business licensee provides services. A business licensee may employ multiple qualifying parties. To qualify a business in a category of pest management, a qualifying party shall have an active qualifying party license in the pest management category. A qualifying party may qualify a business in every pest management category in which the qualifying party is licensed.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-605. Business Management**

- A.** Financial responsibility.
  1. A business licensee shall maintain the financial responsibility required by A.R.S. § 32-2313 and this Chapter;
  2. A business licensee shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch office; and
  3. If there is an interruption in the financial responsibility of a business licensee, the business licensee shall immediately stop providing pest management services.
- B.** Use of business name and license number.
  1. A business licensee shall prominently display the license issued by the Commission at the primary business office and each branch office.
  2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Commission, on:
    - a. Customer proposals or contracts for pest management services;
    - b. Service records;
    - c. Inspection reports;
    - d. Written materials provided to customers or potential customers;
    - e. Correspondence;
    - f. Advertisements; and
    - g. Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number display on a service vehicle or trailer used in providing pest management services conforms to the following:
      - i. Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the Commission issues the license or issues a business license change under R4-29-214 or after the service vehicle or trailer is acquired, whichever is sooner;
      - ii. Is in a color that contrasts with the color of the service vehicle and trailer;
      - iii. Is on both sides of the service vehicle and trailer;
      - iv. Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and

- v. Uses at least two-inch numbers for the license number.
- 3. A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (B)(2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (B)(2)(g).
- 4. When complying with subsection (B)(2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (B)(2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.
- C. Notice to Commission of an incident. A business licensee shall determine whether a qualifying party that qualifies the business licensee complied with R4-29-504(I). If the business licensee determines that the qualifying party has yet to comply with R4-29-504(I), the business licensee shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:
  - 1. Death or illness of an individual or animal;
  - 2. Contamination of food, feed, drugs, or water supply;
  - 3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
  - 4. Contamination of the environment that results in evacuation of the area.
- D. A business licensee shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A business licensee shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-606. Storing Pesticides and Devices

- A. A business licensee shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.
- B. A business licensee shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.
- C. Immediately after storing a pesticide, a business licensee shall conspicuously post a sign at the entrance or access to a non-vehicle storage area and on a vehicle storage area indicating there is a pesticide, chemical, or poison stored inside.
- D. A business licensee shall provide sufficient ventilation to the outside of the storage area required under subsection (A) to prevent build-up of odors and preclude chemical injury to an individual or animal.
- E. A business licensee shall provide the following in or immediately adjacent to the storage area required under subsection (A), including a storage area on a service vehicle:
  - 1. Electric or battery-powered lighting that is sufficient to read a pesticide label;
  - 2. Fully charged and operational fire extinguisher or fire suppression system appropriate to each pesticide stored in the area;
  - 3. First-aid kit that includes the supplies listed in R4-29-607(6);

- 4. Emergency medical information including the telephone number of the state or local poison control center;
- 5. Material capable of absorbing a spill or leak of at least one gallon;
- 6. Specimen label and MSDS for each pesticide stored in the area; and
- 7. Washing facilities that include fresh water, soap, and towels.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-607. Equipping a Service Vehicle

A business licensee shall provide each service vehicle with the following:

- 1. All equipment and supplies required by the label and labeling to apply properly the pesticides on the service vehicle;
- 2. A measuring and pouring device compatible with the pesticides on the service vehicle;
- 3. Protective clothing and safety equipment suitable for use when handling, mixing, or applying the pesticides on the service vehicle;
- 4. Material capable of absorbing a spill or leak of at least one gallon;
- 5. A storage container large enough to hold material contaminated by absorbing a spill or leak of pesticides;
- 6. A first-aid kit that contains the following:
  - a. Antiseptic cleansing wipes, soap and water, or skin sanitizer;
  - b. Clean, uncontaminated, non-latex gloves;
  - c. Adhesive bandages, gauze, and tape;
  - d. Disposable towels;
  - e. First aid guide; and
  - f. Emergency telephone numbers including the telephone number of the state or local poison control center;
- 7. At least one gallon of clean, drinkable water for each individual using the service vehicle at one time;
- 8. Uncontaminated change of clothing;
- 9. Specimen label and MSDS for each pesticide on the service vehicle; and
- 10. A locking storage space designed to prevent a pesticide container from being damaged while in transit.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-608. Providing Termite Treatment

- A. If a business licensee or an employee of a business licensee is advised before concrete is poured that a pretreatment area is disturbed and the continuous chemical barrier is broken and if an opportunity is provided to re-treat the disturbed area or is advised that a new-construction treatment area is disturbed, the business licensee shall ensure that the disturbed area is retreated.
- B. A business licensee that performs a pretreatment or new-construction treatment shall establish vertical barriers at the exterior of foundation walls in stem-wall construction or the exterior of grade beam in monolithic construction after all grading and other construction-related soil disturbance is complete. This final-grade treatment, which may be completed after construction, is part of either the pretreatment or new-construction treatment.

- C. A business licensee that provides a termite-treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins.
- D. If subterranean termites occur in or on a residential or commercial structure within five years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the structure free of charge in accordance with the label specifications of a termiticide available for use. If subterranean termites occur in or on an addition that does not abut the slab of a residential or commercial structure within five years after a business licensee first performs a pretreatment or new-construction treatment of the non-abutting addition, the business licensee shall re-treat the non-abutting addition free of charge in accordance with the label specifications of a termiticide available for use. For the purpose of this subsection, the business licensee is the business licensee who performed the pretreatment or new-construction treatment or a successor that acquired the business assets pertaining to category B2 or B8.
- E. If subterranean termites occur a third time on the exterior of a one or two unit residential structure within five years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall re-treat the entire exterior perimeter of the structure free of charge.
  - 1. As used in this subsection, exterior means a portion of a residential structure where termite activity originates and that is not livable and not a garage;
  - 2. For the purpose of this subsection and subsection (F):
    - a. A first occurrence means the first time evidence of subterranean termites exists after a pretreatment or new-construction treatment;
    - b. A second occurrence means evidence of subterranean termites exists at least 25 feet away from the site of the first occurrence and at least 45 days after the date of re-treatment for the first occurrence; and
    - c. A third occurrence means evidence of subterranean termites exists at least 25 feet away from the sites of both the first and second occurrences and at least 45 days after the date of re-treatment for the second occurrence.
- F. If subterranean termites occur a third time on the interior of a one or two unit residential structure within five years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall perform a post-construction treatment of the entire structure free of charge. As used in this subsection, interior means a portion of a residential structure where termite activity originates and that is livable or a garage.
- G. A business licensee that performs a re-treatment under subsection (D) or (E) or a post-construction treatment under subsection (F) shall not charge the consumer for any expense incurred in providing the re-treatment or post-construction treatment to which the consumer is entitled under this Chapter.
- H. If a business licensee goes to a structure to perform a re-treatment under subsection (D) or (E) or a post-construction treatment under subsection (F) and determines there is no evidence of subterranean termites, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.
- I. If a business licensee determines that a re-treatment or post-construction treatment is necessary because the continuous chemical barrier is disturbed, the business licensee may charge the reasonable cost of reestablishing the barrier.
- J. If a customer refuses a re-treatment or post-construction treatment as described in this Section, access to the customer's property, or to allow drilling in an area where drilling is neces-

sary, the business licensee shall obtain the customer's printed name and dated signature on a document evidencing that the business licensee:

1. Informed the customer of the right to a re-treatment or post-construction treatment at no charge,
2. Provided the customer with a copy of this Section and the termiticide label requirements,
3. Provided the customer with the Commission's telephone number, and
4. Explained to the customer the benefits of having and the detriments of not having a re-treatment or post-construction treatment.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-609. Business Licensee Recordkeeping

- A. In addition to ensuring that the records required under R4-29-307 and R4-29-505 are made and maintained, a business licensee shall make and maintain records of the following:
  1. The specimen label and MSDS for each registered pesticide currently used by an applicator employed by the business licensee;
  2. The financial responsibility required under R4-29-605(A);
  3. Purchase records of each pesticide purchased or otherwise acquired that include the following information:
    - a. Date of purchase or acquisition;
    - b. Trade name or common name of pesticide;
    - c. Quantity of pesticide purchased or acquired; and
    - d. Name of the business licensee;
  4. Date on which a service vehicle or trailer is acquired;
  5. Incident reports submitted to the Commission as required under R4-29-504(I) or R4-29-605(C);
  6. A pest management service provided to a customer, including a service provided under a warranty;
  7. The evidence of customer refusal of a re-treatment or post-construction treatment required under R4-29-608(J);
  8. Written inspection reports;
  9. Customer contracts for pest management services; and
  10. Personnel records including for each employee of the business licensee:
    - a. Date of hire;
    - b. Date on which pest management services are first performed;
    - c. Copy of license issued by the Commission;
    - d. Training and continuing education received;
    - e. Supervision received;
    - f. Protective clothing, safety supplies, and equipment issued to employee;
    - g. Name of supervisor; and
    - h. Employment ending date.
- B. A business licensee shall maintain the records as follows:
  1. Records under subsection (A)(1), as long as the registered pesticide is used by the business licensee. The business licensee shall maintain the records required under subsection (A)(1) at the primary business office or branch office from which the registered pesticide is used or at which the registered pesticide is stored;
  2. Records under subsection (A)(2), current;
  3. Records under subsection (A)(3) or R4-29-307(C) and (D), three years from the date of purchase or disposal if the pesticide is not used in wood-destroying insect control and five years if the pesticide is used in wood-destroying insect control;

## Office of Pest Management

4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business licensee;
  5. Records under subsection (A)(5), until the statute of limitation for possible legal action resulting from the incident is expired or until resulting legal action is completed;
  6. Records under subsection (A)(6), three years except five years for a pest management service involving wood-destroying insect control or wood-destroying insect or fungi inspection;
  7. Records under subsection (A)(7), five years;
  8. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
  9. Records under subsection (A)(10), three years after the employment ending date;
  10. WDIIRs completed under subsection (C), five years. The business licensee shall consecutively number the WDIIRs and:
    - a. Maintain them in consecutive order; or
    - b. Maintain them in a different order and maintain a list of the WDIIRs in consecutive order that includes the date of the inspection and the heading under which each WDIIR is filed; and
  11. Records under subsections (A)(5) and (A)(6) that pertain to the use of a restricted-use pesticide shall be maintained separate from other records.
- C.** When an applicator employed by a business licensee submits a WDIIR, the business licensee shall record the following on the WDIIR:
1. TARF number,
  2. If the business licensee has the property under warranty:
    - a. Account number,
    - b. Target pest,
    - c. Date of initial treatment,
    - d. Date of warranty expiration, and
  3. The TARF number of each TARF completed regarding the property after the WDIIR is completed.
- D.** TARF. A business licensee shall:
1. Submit to the Commission a TARF, using a form approved by the Commission, within 30 days of completing a termite action specified under subsection (D)(3). For the purpose of reporting, a pretreatment or new-construction treatment is complete when no further preventative treatment is necessary until the final-grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier. In a multiple-unit project, a pretreatment or new-construction is complete when no further preventative treatment is necessary for the last unit at the project until the final-grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
  2. Include the fee specified under R4-29-105(D) with each TARF and, if applicable, the penalty required under R4-29-105(E);
  3. Unless exempt under subsection (D)(4), submit a TARF after completing each of the following:
    - a. Pretreatment, including pretreatment of an addition that does not abut the slab of a previously pretreated structure;
    - b. New-construction treatment, including new-construction treatment of an addition that does not abut the slab of a previously new-construction treated structure;
    - c. Final-grade treatment;
    - d. First corrective termite treatment at a site; and
    - e. Wood-destroying insect inspection.
4. Not submit a TARF after completing the following:
    - a. First corrective termite treatment at a site if the business licensee:
      - i. Performed a pretreatment or new-construction treatment at the site,
      - ii. Filed a TARF regarding the pretreatment or new-construction treatment, and
      - iii. Performs the first corrective treatment under R4-29-608(D) or under a warranty; or
    - b. Pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure if the business licensee:
      - i. Performed the pretreatment or new-construction treatment of the main structure,
      - ii. Filed a TARF regarding the pretreatment or new-construction treatment,
      - iii. Has the structure under warranty, and
      - iv. Treats the abutting addition under the terms of the site warranty.
  5. Include the information required under A.R.S. § 32-2304(A)(13) and the following on a TARF:
    - a. License number of the licensed business that performed the work;
    - b. License number of the qualifying party that qualifies the licensed business in category B2 or B8, as applicable;
    - c. For a wood-destroying insect inspection, indicate whether:
      - i. There was evidence of infestation, conditions conducive to infestation, or damage present;
      - ii. Treatment was performed for an infestation; and
      - iii. Corrective actions were taken for conditions conducive or damage present;
    - d. For a pretreatment, new-construction treatment, or post-construction preventative treatment to establish an exterior vertical barrier, indicate:
      - i. Chemical used and its EPA registration number,
      - ii. Amount of chemical used,
      - iii. Percentage of active ingredient in the chemical used, and
      - iv. Square and linear footage treated; and
    - e. For a post-construction corrective termite treatment, indicate:
      - i. Type of treatment,
      - ii. Target organism,
      - iii. Chemical used and its EPA registration number,
      - iv. Amount of chemical used, and
      - v. Percentage of active ingredient in the chemical used.
- E.** If the Commission requests a record from a business licensee as a result of the Commission determining there is an emergency endangering the health or safety of an individual, animal, or the environment, the business licensee shall provide the record to the Commission within one hour.
- F.** Upon written request by the Commission, a business licensee shall make the records required under this Section available for review by the Commission. The business licensee from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The business licensee shall make the records available at the Commission office by hand delivery, electronic mail or fax. The business licensee shall be available to interpret the submitted records if requested by the Commission.

- G. If a business licensee cannot timely comply with a request made under subsection (F), the business licensee shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- H. The Commission shall:
  1. Modify the request made under subsection (F) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
  2. Provide additional time to respond to the request made under subsection (F) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.
- I. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

### ARTICLE 7. INSPECTIONS; INVESTIGATIONS; COMPLAINTS; DISCIPLINARY PROCEDURES

#### R4-29-701. General Provisions

- A. A party to a proceeding involving the Commission may be self-represented or represented by an attorney licensed in Arizona.
- B. If a party to a proceeding involving the Commission wishes to be represented by an attorney licensed in a state other than Arizona, the party shall ensure that the attorney is approved in advance to appear pro hac vice by the Arizona Supreme Court.
- C. If a party to a proceeding involving the Commission will be represented by an attorney, the party shall ensure that the attorney provides the Commission with written notice of intent to appear.
- D. The Commission shall serve a notice of complaint or a notice of hearing on the individual or entity that is the subject of the matter being noticed by personal delivery or first-class, certified mail with a return receipt requested to the address of record with the Commission. The Commission shall serve all other documents by personal delivery or first-class mail.
- E. If an attorney submits the notice required under subsection (C), the Commission shall make service of all notices and documents as described in subsection (D) on the attorney.
- F. Service by the Commission is complete on the date of personal delivery, the date on a return receipt, or five days after a first-class mail postmark date.
- G. To ensure timely receipt of all notices and documents served, a party to a proceeding involving the Commission shall provide written notice to the Commission of a change in address.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-702. Inspections, Investigations, and Complaints

- A. To monitor compliance with the Commission's statutes and this Chapter and to determine whether pest management services are being provided in safe and effective manner, the Commission may conduct an inspection, with or without notice to a licensee, of:
  1. The licensee's office, including a branch office;
  2. The licensee's service vehicle or trailer; or
  3. The licensee while engaged in providing pest management services.
- B. Following an inspection conducted under subsection (A), the Commission shall provide a report to the inspected licensee

that notes whether corrective action is required and, if so, the date by which the licensee is to complete the corrective action.

- C. If corrective action is required following an inspection, the licensee shall provide written notice to the Commission, by the date specified in the inspection report, that the corrective action is complete. If the licensee fails to complete the corrective action and provide the written notice required by this subsection, the Commission shall open an inquiry or file a complaint against the licensee.
- D. An individual or entity shall not refuse to attend, testify, or produce evidence sought by the Commission in an investigation or proceeding instituted by or involving the Commission unless the testimony or evidence is privileged under the U.S. or Arizona constitution or otherwise protected by law and the individual or entity asserts the privilege or protection before testifying or producing the evidence. If an individual or entity asserts the privilege against self incrimination, the Commission may, with written approval of the attorney general, issue a written order or apply to an appropriate court for an order compelling the testimony or production of evidence.
- E. Testimony or evidence compelled under subsection (D) is not admissible or usable in any proceeding except one involving a charge of perjury, false swearing, tampering with evidence, or another offense committed in connection with the testimony or production of evidence.
- F. If the Commission provides notice that it has filed a complaint against an individual or entity, the individual or entity shall submit to the Commission a written response that addresses the allegations in the complaint within 20 days of the date of the notice.
- G. The license of a licensee who is provided written notice of a pending investigation or complaint does not expire even if the licensee fails to renew timely. The Commission shall place the license on non-disciplinary suspension until the investigation is complete or the complaint is adjudicated.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-703. Settlement Conferences

- A. If the Commission determines that it is in the best interest of the state, the Commission shall designate one or more individuals to conduct a settlement conference to negotiate a proposed resolution with an individual or entity against whom the Commission has filed a complaint.
- B. The Commission shall conduct a settlement conference informally. The Commission shall not place a witness under oath at a settlement conference and shall not issue a subpoena for attendance.
- C. The Commission shall not make an audio, video, or stenographic recording of a settlement conference. The Commission may make a general written record of a settlement conference.
- D. A party to a settlement conference shall not disclose to the Commission a settlement offer that does not result in a proposed resolution.
- E. A party to a settlement conference shall not introduce into evidence at a formal hearing a statement made at the settlement conference unless all parties agree to the introduction.
- F. Following a settlement conference, the Commission shall accept, reject, or modify the proposed resolution negotiated by participants in the settlement conference. If the Commission rejects a proposed resolution involving a licensee, the Commission shall dismiss the matter, conduct further investigation, renegotiate a proposed resolution, or send the matter to formal hearing. If the Commission rejects a proposed resolution

involving an unlicensed individual or entity, the Commission shall dismiss the matter, conduct further investigation, renegotiate a proposed resolution, send the matter to formal hearing, or impose discipline as allowed by law.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-704. Consent Agreements

- A. After a settlement conference, the Commission may impose disciplinary action in a consent agreement and order. To determine the disciplinary action that is appropriate, the Commission shall consider the following:
  1. Prior violation resulting in discipline;
  2. Dishonest or self-serving motive;
  3. Amount of experience as a licensee;
  4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Commission;
  5. Submission of false evidence, false statement, or other deceptive practice during the investigative or disciplinary process;
  6. Refusal to acknowledge wrongful nature of violation;
  7. Likelihood that a similar violation will occur again;
  8. Degree of harm resulting from the violation; and
  9. Whether harm resulting from the violation was cured.
- B. Although the Commission may use evidence of a prior violation resulting in discipline to determine disciplinary action in a current matter, the Commission shall not use evidence of a prior violation as evidence of a violation in a current matter.
- C. The Commission shall ensure that a consent agreement includes the following:
  1. General nature of complaint;
  2. Citation to statutes and rules alleged to be violated;
  3. Disciplinary action to be taken against the individual or entity complained about;
  4. Effective date of the disciplinary action if different from the date of the consent agreement;
  5. Corrective action to be taken by the individual or entity complained about; and
  6. Date by which the corrective action is to be complete.
- D. For a consent agreement to be effective, the Commission chairperson or the chairperson's designee and the individual or entity complained about shall sign the consent agreement.
- E. If an individual or entity complained about refuses to sign a consent agreement, the Commission shall:
  1. Send the matter for formal hearing if the individual or entity is a licensee; or
  2. Issue a decision and order if the individual or entity is unlicensed.
- F. By signing a consent agreement under subsection (D), an individual or entity waives the right to a formal hearing, rehearing, or judicial review of the findings of fact, conclusions of law, or order contained in the consent agreement.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-705. Hearing Procedures

- A. The Commission shall conduct all hearings in accordance with A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. If the Commission denies a license to an applicant, the applicant may file with the Commission a written request for a hearing within 30 days after service of the notice of denial. The applicant shall state in the request for hearing the applicant's name, address and telephone number, and the reasons why the applicant believes the Commission's decision to deny the applicant's license was incorrect. At a hearing regarding a license denial, the applicant has the burden of proving that the applicant is qualified to be licensed in accordance with the Commission's statutes and this Chapter, and shall limit the applicant's evidence presented to that which was originally presented to the Commission for its determination on the application.
- C. If the Commission serves a complaint and notice of hearing on a licensee, the licensee may file a written answer with the Commission within 20 days after service of the complaint and notice of hearing. The licensee shall state in the answer the licensee's name, address and telephone number, and a response to the allegations contained in the complaint and notice of hearing. If the licensee does not timely file a written answer, the Commission shall deem the allegations in the complaint admitted by default. The Commission shall serve a notice of default on the licensee stating that the allegations in the complaint shall be deemed admitted 10 days after service of the notice of default. If the licensee does not respond within 10 days after the notice of default is served, the Commission may take disciplinary action without conducting a hearing. If the licensee responds within 10 days after the notice of default is served, the Commission shall continue with the disciplinary process.
- D. A party that wants the Commission to issue a subpoena to compel the appearance of a witness at a hearing or the production of documentary evidence shall submit a written application to the Commission. The party that applies for a subpoena shall serve the subpoena.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### R4-29-706. Review or Rehearing of a Commission Decision

- A. The Commission shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (J), a party is required to file a motion for rehearing or review of a decision of the Commission to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Commission rules on the motion.
- D. The Commission may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings or an order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct by the Commission, its staff, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  7. The Commission's decision is the result of passion or prejudice; or
  8. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Commission may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). The Commission



shall specify the particular grounds for any order modifying a decision or granting a rehearing.

- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- G.** Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Commission may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Commission may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H.** If a rehearing is granted, the Commission shall hold the rehearing within 60 days after the date on the order granting the rehearing.
- I.** The Commission may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that an extension of time will:
  - 1. Further administrative convenience, expedition, or economy; or
  - 2. Not cause undue prejudice to any party.
- J.** If the Commission makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Commission shall issue the decision as a final decision without an opportunity for rehearing or review.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-707. Judicial Review of Commission Order**

- A.** Except as provided in R4-29-706(J), a Commission order is final on the expiration of time for filing a motion for review or rehearing under R4-29-706 or on denial of a motion for review or rehearing, whichever is later.

- B.** A party that has exhausted the party's administrative remedies may appeal a final order of the Commission under A.R.S. Title 12, Chapter 7, Article 6.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

#### **R4-29-708. Disciplinary Action**

- A.** Following entry of a final order that a licensed or unlicensed individual or entity violated the Commission's statutes or this Chapter, the Commission shall impose discipline as allowed by A.R.S. §§ 32-2304, 32-2321, 32-2327, and 32-2329. In considering the discipline to impose, the Commission shall consider the factors identified in R4-29-704.
- B.** The Commission shall place a licensee on probation, as allowed by A.R.S. § 32-2321, if the Commission determines that probation will benefit the licensee or protect the public or environment. The Commission shall define probation requirements that benefit the licensee or protect the public or environment, which may include:
  - 1. Reporting by or monitoring of the licensee, or
  - 2. Participating in educational activities other than those required by the Commission's statutes or this Chapter.
- C.** The Commission shall impose a civil penalty on a licensee, as allowed by A.R.S. § 32-2321, for failure to file or late filing of a TARF if:
  - 1. The licensee has a prior violation of the same type; and
  - 2. The number of TARFs not filed or filed late equals or exceeds 10 percent of the TARFs that the licensee filed in the previous 12 months.

#### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 623, effective April 7, 2007 (Supp. 07-1).

## Board of Homeopathic and Integrated Medicine Examiners

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 38. BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS**

(Authority: A.R.S. § 32-2904 et seq.)

*Chapter heading amended from Board of Homeopathic Medical Examiners to Board of Homeopathic and Integrated Medicine Examiners by A.R.S. § 32-2902 as amended by Laws 2008, Ch. 57 (Supp. 10-1).*

**ARTICLE 1. GENERAL**

## Section

- R4-38-101. Definitions
- R4-38-102. Additional Requirements for Applicants Graduated from an Unapproved School of Medicine
- R4-38-103. Postgraduate Requirements for Licensure
- R4-38-104. Approved Postgraduate Coursework
- R4-38-105. Approval of Preceptorship
- R4-38-106. Fees
- R4-38-107. Examination
- R4-38-108. Application for Licensure
- R4-38-109. License Renewal
- R4-38-110. Notification of Change in Contact Information
- R4-38-111. Experimental Forms of Diagnosis and Treatment
- R4-38-112. Peer Review
- R4-38-113. Chelation Therapy Practice Requirements
- R4-38-114. Rehearing or Review of Decision
- R4-38-115. Use of Title and Abbreviation
- R4-38-116. Continuing Education Requirement
- R4-38-117. Application For Continuing Education Approval
- R4-38-118. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

**ARTICLE 2. DISPENSING OF DRUGS BY HOMEOPATHIC PHYSICIANS**

## Section

- R4-38-201. Definitions
- R4-38-202. General Provisions
- R4-38-203. Repealed
- R4-38-204. Repealed
- R4-38-205. Repealed
- R4-38-206. Packaging

**ARTICLE 3. EDUCATION, SUPERVISION, AND DELEGATION STANDARDS FOR REGISTRATION OF MEDICAL ASSISTANTS BY HOMEOPATHIC PHYSICIANS**

## Section

- R4-38-301. Definitions
- R4-38-302. Requirements to Supervise a Medical Assistant; Standards for Supervision
- R4-38-303. Board Standards for a Formal Education Program
- R4-38-304. Approved Practical Education Program; Renewal
- R4-38-305. Minimum Requirements for Registration of a Homeopathic Medical Assistant
- R4-38-306. Application to Register a Medical Assistant
- R4-38-307. Additional Requirements to Register a Previously Licensed Health Care Practitioner
- R4-38-308. Renewal of Medical Assistant Registration
- R4-38-309. Restrictions on Delegated Procedures
- R4-38-310. Registration Not Transferable; Multiple Employers
- R4-38-311. Responsibilities of a Registered Medical Assistant
- R4-38-312. Unprofessional Conduct

**ARTICLE 4. APPLICATION AND RENEWAL PROCESS; TIME-FRAMES**

*Article 4, consisting of Sections R4-38-401 thru R4-38-403, adopted effective September 24, 1998 (Supp. 98-3).*

## Section

- R4-38-401. Definitions
- R4-38-402. Application; Initial License, Permit, or Registration
- R4-38-403. Application; Renewal of License, Permit, or Registration

**ARTICLE 1. GENERAL****R4-38-101. Definitions**

In addition to the definitions at A.R.S. § 32-2901, in this Chapter:

1. "Beneficial clinical usage" means that usage results of a therapy modality or treatment are documented by:
  - a. Clinical reports from national or international organizations;
  - b. Professionally recognized publications of clinical indications and contraindications;
  - c. National or international instructional courses providing training in the use of the therapy modality, or treatment; or
  - d. Professional peer review presentations of physicians' usage results with the therapy modality or treatment at local, county, state, national or international meetings.
2. "Classical homeopathy" means a system of medical practice expounded by Samuel Hahnemann in the *Organon of Medicine* that treats a disease by the administration of minute doses of a remedy that would in healthy persons produce symptoms of the disease treated.
3. "Complex homeopathy" means a system of medical practice that combines one or more homeopathic remedies that are not described in the *Organon of Medicine*.
4. "EAV" means electric acupuncture according to Reinhard Voll.
5. "Fifth Pathway program" means an academic program created by the Council on Medical Education of the American Medical Association specifically for American medical students studying abroad.
6. "Generally accepted experimental criteria in homeopathy" means:
  - a. A protocol in which a therapy modality or treatment is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation of symptoms or side effects;
  - b. A process of recording the clinical efficacy of a therapy modality or treatment reflected by measurements of symptom aggravation or improvement, laboratory testing, and changes in physiologic functioning; or
  - c. A process by which innovative diagnostic procedures and devices are analyzed and evaluated according to their ability to assist a physician in assessing the degree of electrical resistance or conduction disturbance in the totality of a patient's presenting signs, symptoms, and physiologic responses

- and predict or monitor the totality of the patient's responses to a therapy modality or treatment.
7. "Homeopathic indication" means a recognized standard of practice of homeopathic practitioners that describes a sign, symptom, and physical finding that leads to the recommendation of a particular substance or therapeutic procedure.
  8. "Metal poisoning" means a level of toxic metals present in a patient that in the professional judgment of a licensee is inconsistent with the patient's ability to achieve optimal health.
  9. "Proving method of administration" means testing a homeopathic drug on healthy volunteers by recording, compiling, and organizing symptoms that are developed into a repertory.
  10. "Repertory" means a compilation, usually in book form, of information categorized by the different systems of the body and providing an index of symptoms and a listing of corresponding homeopathic remedies.
  11. "Rubric" means a guiding symptom leading to a homeopathic remedy.

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Heading amended effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2).

#### R4-38-102. Additional Requirements for Applicants Graduated from an Unapproved School of Medicine

In addition to the requirements for a license prescribed in A.R.S. § 32-2912, an applicant who has not graduated from an approved school of medicine shall meet the following:

1. Hold a standard certificate issued by the Educational Council for Foreign Medical Graduates; or
2. Complete a Fifth Pathway program of one academic year of supervised clinical training under the direction of an approved school of medicine in the United States and upon completion of the Fifth Pathway program complete a 24-month internship, residency, or clinical fellowship program accredited by the Accreditation Council on Graduate Medical Education (ACGME).

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2).

#### R4-38-103. Postgraduate Requirements for Licensure

Under A.R.S. § 32-2912(F)(3), an applicant for licensure shall:

1. Have a degree of doctor of medicine in homeopathy issued by a homeopathic college or other Board-approved educational institution, or
2. Have successfully completed:
  - a. Formal postgraduate courses approved under R4-38-104, or
  - b. A preceptorship approved under R4-38-105.

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-103 renumbered to R4-38-104; new Section made by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-104. Approved Postgraduate Coursework

- A. An applicant who seeks licensure based on successful completion of formal postgraduate courses shall:

1. Complete at least 300 hours of formal postgraduate courses in one or more of the treatment modalities specified in subsections (C)(1) through (6);
  2. Ensure that at least 40 of the 300 required hours are in a course of classical homeopathy; and
  3. Submit with the application required under R4-38-108 a statement from the sponsor of the formal postgraduate course that includes:
    - a. The applicant's name,
    - b. The name of the course sponsor,
    - c. The dates on which the course was taken,
    - d. A brief description of the course content,
    - e. The number of hours completed, and
    - f. Whether the applicant successfully completed the course.
- B.** The Board shall approve a formal postgraduate course if the Board determines that:
1. Except as provided in subsection (B)(4), the course content provides training in one or more of the treatment modalities specified in subsections (C)(1) through (6).
  2. There is evidence that the course instructor is qualified in the subject matter of the course; and
  3. The course sponsor is recognized within the homeopathic, osteopathic, or allopathic medical profession as a provider of postgraduate training and continuing education; or
  4. An applicant who has completed postgraduate coursework in treatment modalities not specified in subsections (C)(1) through (6) shall submit evidence of the postgraduate coursework with the application sufficient to enable the Board to determine whether the postgraduate coursework is related to the practice of homeopathic medicine as defined in statute.
- C.** An applicant who wishes to practice a specific treatment modality listed in subsections (C)(1) through (6) shall demonstrate proficiency in the modality by completing the indicated number of postgraduate course hours or certification by the indicated credentialing authority.
1. Acupuncture:
    - a. Classical acupuncture:
      - i. Certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), or
      - ii. Completing at least 220 hours of postgraduate courses recognized by the American Academy of Medical Acupuncture or other sponsor approved by the Board that provides equivalent training.
    - b. Electro-diagnosis: Completing at least 50 hours of postgraduate courses in electro-diagnosis that are approved by the Board.
  2. Chelation therapy: Completing at least 16 hours of postgraduate courses offered by the American Board of Clinical Metal Toxicology, American College of Alternative Medicine, International College of Integrative Medicine, or the American Academy of Environmental Medicine or other sponsor approved by the Board that provides equivalent training.
  3. Classical homeopathy: Completing at least 90 hours of formal postgraduate courses in classical homeopathy approved by the Board, or whose sponsor is recognized by the Council on Homeopathic Education, the American Institute of Homeopathy, the American Board of Homeotherapeutics, the Homeopathic Association of Naturopathic Physicians or the Council for Homeopathic Certification.

## Board of Homeopathic and Integrated Medicine Examiners

4. Complex homeopathy and electro-therapeutics, EAV and related: Completing at least 90 hours of formal postgraduate courses in complex homeopathy approved by the Board, or whose sponsor is recognized by the Council on Homeopathic Education, the American Institute of Homeopathy, the American Board of Homeotherapeutics, the Homeopathic Association of Naturopathic Physicians, or the Council for Homeopathic Certification.
5. Neuromuscular integration:
  - a. Completing a residency or fellowship in physical medicine or graduation from an osteopathic medical school; or
  - b. Completing at least 220 hours of formal postgraduate courses in neuromuscular integration therapies that are approved by the Board.
6. Orthomolecular therapy and nutrition: completing at least 300 hours of postgraduate courses in orthomolecular therapy and nutrition approved by the Board.

**Historical Note**

Adopted effective February 22, 1988 (Supp. 88-1). Amended effective January 27, 1995. Amended effective February 7, 1995 (Supp. 95-1). Amended effective November 12, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-104 renumbered to R4-38-105; new R4-38-104 renumbered from R4-38-103 and amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-105. Approval of Preceptorship**

- A. An applicant who seeks licensure based on successful completion of a preceptorship shall obtain the Board's approval of the preceptorship by submitting the following with the application required under R4-38-108:
  1. A notarized affidavit from each preceptor on the preceptor's letterhead attesting to:
    - a. The educational qualifications of the preceptor,
    - b. The number of years the preceptor has been conducting preceptorships;
    - c. The dates of the preceptorship,
    - d. An outline of the training conducted,
    - e. Which of the treatment modalities listed in A.R.S. § 32-2901(22) were involved in the training,
    - f. The number of hours of didactic and clinical training in each treatment modality, and
    - g. The general nature of the services performed during the training; and
  2. A summary from the applicant of each preceptorship including:
    - a. The name of each preceptor,
    - b. The treatment modalities included in each preceptorship, and
    - c. The total number of hours claimed instead of formal postgraduate courses.
- B. The Board shall approve a preceptorship under this Section if the Board determines that:
  1. The preceptorship provides training in one or more of the treatment modalities specified in R4-38-104;
  2. The preceptorship involves a balance of didactic and clinical training;
  3. The preceptor has been in full-time clinical practice for at least three years and meets the educational requirements of R4-38-302(C) in the treatment modality being precepted; and
  4. If the preceptorship involves training in classical homeopathy, the preceptorship includes case-taking, repertory

use, materia medica, philosophy and history of homeopathy, acute remedies, constitutional prescribing, posology, homeopathy prescription policy, and remedy handling policy.

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Amended by emergency rulemaking at 12 A.A.R. 4894, effective December 4, 2006 for 180 days (Supp. 06-4). Emergency expired. Amended by final rulemaking at 13 A.A.R. 2924, effective August 7, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1). Former R4-38-105 renumbered to R4-38-106; new R4-38-105 renumbered from R4-38-104 and amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-106. Fees**

- A. The Board establishes and shall collect the following fees, which are specifically authorized by A.R.S. § 32-2914:
  1. Application for license: \$550.00
  2. Issuance of initial license: \$250.00
  3. Annual renewal of license: \$1000.00
  4. Late renewal penalty: \$350.00
  5. Application for dispensing permit: \$200.00
  6. Annual renewal of dispensing permit: \$200.00
  7. Locum tenens registration application: \$200.00
  8. Locum tenens registration issuance: \$100.00
  9. Application for approval of a practical education program: \$150.00
  10. Annual renewal of approval of a practical education program: \$50.00
  11. Initial application to register a medical assistant: \$200.00
  12. Annual renewal of registration of medical assistant: \$200.00
- B. The Board shall collect the following amounts for the services described:
  1. Annual directory: \$25.00
  2. Copies, per page: \$0.25
  3. Copies, per audio tape: \$35.00
  4. Copies, per 1.44 M computer disk: \$100.00
  5. Mailing lists - non-commercial (per name): \$0.05
  6. Mailing lists - commercial (per name): \$0.25
  7. Mailing list labels (per name): \$0.30
  8. Copy of statutes or rules: \$5.00

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-106 renumbered to R4-38-107; new R4-38-106 renumbered from R4-38-105 by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3). Amended by final rulemaking at 18 A.A.R. 2143, effective October 7, 2012 (Supp. 12-3).

**R4-38-107. Examination**

- A. The examination for a license consists of two parts:
  1. A timed written examination that includes questions addressing the treatment modalities listed in A.R.S. § 32-2901(22). To pass the written examination, an applicant shall obtain a score of at least 70 percent; and
  2. A personal interview with the Board to examine an applicant's personal and professional history as it applies to homeopathic medicine. The Board may ask questions to clarify issues regarding the applicant's competence to

engage in the practice of medicine safely, unprofessional conduct in the applicant's professional record, and whether the scope of the applicant's practice falls within the scope of homeopathic medicine as defined at A.R.S. § 32-2901(22).

- B.** An applicant may use a copy of Kent's Repertory as a reference during the written examination. An applicant shall not use a computer or other written material during the written examination.

#### Historical Note

Adopted effective June 13, 1988 (Supp. 88-2). Amended effective February 7, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Section repealed; new R4-38-107 renumbered from R4-38-106 and amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-108. Application for Licensure

- A.** To apply for licensure, an applicant shall submit the following directly to the Board:

1. An application form that contains the following information about the applicant:
  - a. Name as the applicant wants the name to appear on a license;
  - b. Social Security number, as required under A.R.S. §§ 25-320(P) and 25-502(K);
  - c. Date and place of birth;
  - d. Personal identifying characteristics including gender, weight, height, eye and hair colors, and any identifying marks;
  - e. Business name and address;
  - f. Residential address;
  - g. Business telephone and fax numbers;
  - h. E-mail address;
  - i. Date on which the applicant expects to take the written examination required under A.R.S. § 32-2913;
  - j. Name of the approved medical school from which the applicant obtained an allopathic or osteopathic medical degree and the date of the degree;
  - k. Name of the hospital program at which the applicant served as an intern and the years of the internship;
  - l. Names and addresses of three physicians who will send the Board letters of recommendation for the applicant;
  - m. List of the states or other jurisdictions in which the applicant is or ever has been licensed to practice medicine;
  - n. List of specialty colleges of which the applicant is a member;
  - o. List of specialty boards by which the applicant is certified;
  - p. List of the places where the applicant has practiced medicine and the dates of practice;
  - q. Statement indicating whether the applicant:
    - i. Has, within the last 10 years, had a medical malpractice judgment entered against an applicant or settled a malpractice claim against the applicant;
    - ii. Has ever been convicted of or pled guilty or nolo contendere to a criminal charge in an adult court of record;
    - iii. Has been charged with a crime that is pending adjudication in an adult court of record;
    - iv. Has had a state or other jurisdiction refuse or deny the applicant a license to practice medicine or has allowed the applicant to withdraw a license application instead of being refused or denied a license to practice medicine;

cine or has allowed the applicant to withdraw a license application instead of being refused or denied a license to practice medicine;

- v. Has had a state or other jurisdiction take disciplinary action against the applicant's license to practice medicine including placing the license on probation, suspending the license, limiting or restricting the license, revoking the license, or accepting surrender of the license;
  - vi. Has had a state or other jurisdiction, including a federal agency, suspend, limit, restrict, revoke, deny, or accept surrender in lieu of action of the applicant's registration to possess, dispense, or prescribe controlled substances;
  - vii. Has or had, within the last 10 years, a mental illness or psychological condition that impaired the applicant's ability to practice medicine or function as a medical student;
  - viii. Is now or has been within the last 10 years dependent upon alcohol or drugs; and
  - ix. Has had a specialty board or college suspend, revoke, or deny certification to the applicant.
  - r. Notarized signature and attestation that the information provided is true, correct, and complete;
2. A summary listing the course title, sponsor, dates attended, and credit hours and evidence of completing the 300 hours of postgraduate coursework required under R4-38-104 or the preceptorship required under R4-38-105;
  3. If the answer to any item in subsections (A)(1)(q)(i) through (ix) is yes, detailed information regarding the nature, date, and location of the incident, or the nature of the condition, and the identity of the agency, court, or organization involved, action taken, and current status;
  4. An Arizona Statement of Citizenship and documentary evidence of U.S. citizenship or qualified alien status;
  5. A list of the homeopathic modalities the applicant intends to make available under the applicant's supervision if the applicant is licensed;
  6. If the applicant intends to use an experimental form of diagnosis or treatment in the applicant's homeopathic medical practice, a copy of the written informed consent materials that a patient will sign before examination or treatment;
  7. Two photographs of the applicant's face taken within the last 60 days;
  8. A copy of the membership card provided by a specialty college of which the applicant is a member;
  9. A copy of the certification card provided by a specialty board by which the applicant is certified;
  10. A completed and signed form authorizing individuals, organizations, previous employers, and schools to release to the Board information regarding the applicant;
  11. A current curriculum vitae that includes all professional activity from medical school to the present; and
  12. The license application fee specified in R4-38-106.
- B.** An applicant for licensure shall ensure that the following information is submitted directly to the Board:
1. Verification of graduation provided by the allopathic or osteopathic medical college from which the applicant graduated;
  2. Letters of recommendation, on professional letterhead and notarized, from three licensed physicians; and
  3. Verification of licensure from every jurisdiction in which the applicant is or ever has been licensed to practice medicine.

## Board of Homeopathic and Integrated Medicine Examiners

**Historical Note**

Adopted effective June 13, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-108 renumbered to R4-38-110; new Section made by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-109. License Renewal**

- A.** The Board shall provide a licensee with at least 30 days' notice of the need to renew the licensee's license. It is the responsibility of the licensee to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- B.** Under A.R.S. § 32-2915(G), a licensee who wishes to continue practicing homeopathic medicine shall submit the license renewal materials described in subsection (E) annually on or before the last day of the month in which the license was initially issued.
- C.** A licensee who fails to comply with subsection (E) by the date specified in subsection (B) may apply for license renewal within 60 days after the date specified in subsection (B) by:
  1. Submitting to the Board the license renewal materials described in subsection (E), and
  2. Paying the late renewal penalty prescribed in R4-38-106.
- D.** If a licensee fails to comply with either subsection (B) or (C), the licensee's license expires and the licensee shall immediately cease practicing homeopathic medicine. A licensee whose license expires may obtain licensure only by complying again with R4-38-108 and taking the examination specified in R4-38-107.
- E.** To renew a license issued by the Board, a licensee shall submit the following directly to the Board:
  1. A license renewal application that contains the following information about the applicant:
    - a. Name;
    - b. License number;
    - c. Business name and address;
    - d. Residential address;
    - e. Business telephone number;
    - f. E-mail address;
    - g. Address and telephone numbers of each location at which the licensee practices;
    - h. Number of the active M.D. or D.O. license held by the licensee and name of the state that issued the license; and
    - i. A statement indicating whether during the last 12 months:
      - i. A licensing authority of another jurisdiction denied the licensee a license to practice allopathic, homeopathic, or osteopathic medicine and if so, the name of the jurisdiction, date of the denial, and an explanation of the circumstances;
      - ii. A licensing authority of another jurisdiction revoked, suspended, limited, restricted, or took other action regarding a license of the licensee and if so, the name of the jurisdiction taking action, nature and date of the action taken, and an explanation of the circumstances;
      - iii. The licensee has been convicted of or pled guilty or nolo contendere to a criminal charge, including driving under the influence of drugs or alcohol, and if so, the name of the jurisdiction in which convicted, nature of the crime, date of conviction, and current status;
      - iv. A lawsuit was filed or settlement entered into or judgment entered against the licensee alleging professional malpractice or negligence in

the practice of homeopathic, allopathic, or osteopathic medicine and if so, the case number, date of action, the matters alleged, and whether the lawsuit is still pending or the manner in which the settlement or judgment was resolved; and

- v. The licensee has or had a mental illness or psychological condition that may impair the licensee's ability to practice homeopathic medicine safely and skillfully and if so, the nature of the condition and any accommodations necessary;
  - vi. The licensee has been charged with or arrested for any felony or misdemeanor involving conduct that may affect patient safety or a felony as required under A.R.S. § 32-3208.
2. A list of the treatment modalities the licensee makes available under the licensee's supervision;
  3. If the licensee uses an experimental form of diagnosis or treatment in the licensee's practice of medicine, a copy of the written informed consent materials that a patient signs before examination or treatment;
  4. A list of any specialty certifications held by the licensee, the certifying entity, and the date the certification expires;
  5. If the licensee dispenses drugs or devices as part of the licensee's practice of homeopathic medicine:
    - a. The licensee's DEA registration number;
    - b. A statement of whether a complaint has been filed or legal action has been taken against the licensee by a court or federal or state agency for dispensing a device, drug, or substance and if so, the name and address of the court or federal or state agency and documentation of the action taken; and
    - c. A list of the items dispensed;
  6. An Arizona Statement of Citizenship and documentary evidence of U.S. citizenship or qualified alien status;
  7. An affirmation that the licensee has completed the continuing education required under A.R.S. § 32-2915;
  8. An affirmation that the licensee is in compliance with A.R.S. § 32-3211 regarding medical records;
  9. The license renewal fee prescribed under R4-38-106; and
  10. The licensee's dated signature affirming that the information provided is true, correct, and complete.

**Historical Note**

Adopted effective June 13, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-109 renumbered to R4-38-111; new Section made by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-110. Notification of Change in Contact Information**

The Board shall communicate with a licensee using the most recent contact information provided to the Board. To ensure timely communication from the Board, a licensee shall advise the Board in writing within 45 days of opening an additional office or a change in name, office or residential address, or telephone number.

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2). Section repealed by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). New R4-38-110 renumbered from R4-38-108 and amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-111. Experimental Forms of Diagnosis and Treatment**

- A.** The Board neither approves nor advocates specific experimental therapies. The Board considers the standards in this Section

in determining whether a licensee is in compliance with A.R.S. § 32-2933(27). The Board considers a therapy that is in violation of applicable state or federal statutes, or state or federal rules or regulations regarding drugs and devices to be unprofessional conduct under A.R.S. § 32-2933(27).

- B.** Experimental forms of diagnosis or treatment, within the meaning of A.R.S. § 32-2933(27), include:
1. Administration of a pharmaceutical agent untested for safety in humans;
  2. Use of a physical agent or electromagnetic current or field in a manner not supported by established clinical usage; and
  3. Therapy modalities and diagnostic methods that are not included in the practice of homeopathic medicine as defined in A.R.S. § 32-2901(22) and do not meet the criteria of subsection (C).
- C.** The following are not an experimental form of diagnosis or treatment under A.R.S. § 32-2933(27):
1. A substance or therapy modality administered on a homeopathic indication that has been in beneficial clinical usage by professionally trained, legally qualified physicians for at least 10 years;
  2. Homeopathic medications listed in the Homeopathic Pharmacopoeia of the United States;
  3. Homeopathic medications that have been characterized by toxicity studies or by the “proving” method of administration on healthy volunteers to determine the medication’s spectrum of action;
  4. Administration of a pharmaceutical agent for a therapeutic indication supported by clinical usage if the agent is approved to be marketed publicly for other therapeutic indications by the appropriate regulatory agency; and
  5. A procedure used for patient education, preventative medicine, or general health assessment or enhancement such as bio-terrain analysis, live blood analysis, soft laser, magnetic therapy, oxidative therapy, and microelectric therapy, and other procedures considered by the Board to be in beneficial clinical usage.

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Former R4-38-111 renumbered to R4-38-112; new R4-38-111 renumbered from R4-38-109 by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-112. Peer Review

- A.** A licensee using an experimental form of diagnosis and treatment such as vaccine therapy for cancer without affiliation with a recognized research institution, institutional review board, or peer review committee may request or the Board may require review of the procedure by the Board or a Board-appointed peer review committee.
- B.** In conducting the review, the Board or Board-appointed peer review committee shall examine protocols, recordkeeping, analyses of results, and informed patient consent forms and procedures. Based on the review, the Board shall determine the licensee’s compliance with generally accepted homeopathic experimental criteria under A.R.S. § 32-2933(27).
- C.** As used in A.R.S. § 32-2933(27), “periodic review by a peer review committee” means peer review for compliance with any form of experimental medicine occurs at a minimum of five-year intervals through a recognized research institution, institutional review board, or a peer review committee. The chairperson of a Board-appointed peer review committee shall

be appointed by the Board president and approved by the Board.

- D.** During a review of a licensee’s use of experimental forms of diagnosis and treatment or at any other time the Board deems appropriate, the licensee shall submit informed patient consent forms and protocols and other records indicating the licensee’s compliance with generally accepted experimental criteria designated in A.R.S. § 32-2933(27).

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Section repealed; new R4-38-112 renumbered from R4-38-111 by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-113. Chelation Therapy Practice Requirements

- A.** Before a licensee may practice chelation therapy for other than the treatment of metal poisoning, the licensee:
1. Shall document completion of the postgraduate education required in R4-38-104(C)(2); and
  2. Submit to and obtain approval from the Board of the informed patient consent form required by A.R.S. § 32-2933(27). As part of the documentation submitted with the informed patient consent form, the licensee shall include a copy of the chelation therapy protocol.
- B.** A licensee shall ensure that detailed records and periodic analysis of results on patients consistent with the most recent informed consent and protocol on file with the Board are maintained consistent with A.R.S. § 32-2933(27) and available for periodic review by a peer review committee designated by the Board. The licensee shall ensure that retention of patient medical and treatment records conform to the requirements of A.R.S. § 32-2936.

#### Historical Note

Adopted effective June 3, 1988 (Supp. 88-2). Amended effective February 7, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-114. Rehearing or Review of Decision

- A.** Except as provided in subsection (G), any party to an appealable agency action or a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board not later than 30 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds for the motion. A decision is served when personally delivered or five days after the date the decision is mailed to the party at the party’s last known residence or place of business.
- B.** A motion for rehearing may be amended at any time before a ruling by the Board. Any other party may file a response within 15 days after the motion or amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C.** The Board may grant a rehearing or review of the decision for any of the following reasons materially affecting the moving party’s rights:
1. Irregularity in the administrative proceedings of the Board or the hearing officer, or any order or abuse of discretion that results in the moving party being deprived of a fair hearing;
  2. Misconduct of the Board or the non-moving party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;

## Board of Homeopathic and Integrated Medicine Examiners

4. Newly discovered material evidence that with reasonable diligence could not have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
  7. The decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters.
- E.** Not later than 30 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting the rehearing shall specify the grounds for the rehearing.
- F.** When a motion for rehearing is based upon an affidavit the party shall serve the affidavit with the motion. Within 10 days after service, an opposing party may serve an opposing affidavit. The Board may extend the period to serve an opposing affidavit for an additional 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- G.** If the Board makes specific findings that the immediate effectiveness of the decision is necessary for the immediate preservation of the public peace, health, or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- H.** The terms "contested case" and "party" as used in this Section are defined in A.R.S. § 41-1001. The term "appealable agency action" is defined in A.R.S. § 41-1092.

**Historical Note**

Adopted effective June 3, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2).

**R4-38-115. Use of Title and Abbreviation**

- A.** The use of the abbreviation "M.D.(H.)" or "D.O.(H.)" (with or without periods), is equivalent to the written designation, "Doctor of Medicine (Homeopathic)" or "Doctor of Osteopathy (Homeopathic)."
- B.** A homeopathic physician practicing in this state who is not licensed by the Arizona Board of Medical Examiners or the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall not use any designation other than the initials M.D.(H.) or D.O.(H.) (with or without periods) to indicate a doctoral degree.
- C.** A physician licensed by the Board and the Arizona Board of Medical Examiners or the Board and the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall use M.D., M.D.(H.) or D.O., D.O.(H.) as appropriate (with or without periods).
- D.** A licensee practicing in this state shall display the license issued by the Board or an official duplicate of the license in a conspicuous location in the reception area of each office facility.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2008, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-116. Continuing Education Requirement**

- A.** Under A.R.S. § 32-2915(F), a licensee shall complete at least 20 hours of Board-approved continuing education in the 12 months before submitting the license renewal materials required under R4-38-109. If a licensee completes more than 20 hours of continuing education during a year, the licensee shall not report the extra hours in a subsequent year.
- B.** A licensee shall ensure that the licensee obtains and maintains for two years documentary evidence of complying with the continuing education requirement.
- C.** An hour of continuing education consists of 60 minutes of participation unless specified otherwise in subsection (D).
- D.** The following continuing education programs and activities are approved by the Board and do not require an application under R4-38-117:
1. Participating in an internship, residency, or fellowship at a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each day of training in a full-time approved program, or for a less than full-time training on a pro-rata basis. For purposes of this subsection, teaching institutions define "full-time";
  2. Participating in an education program for an advanced degree in a medical or medically-related field in a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each one day of full-time study or less than a full-time study on a pro rata basis. For purposes of this subsection, teaching institutions define "full-time";
  3. Participating in full-time research in a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each one day of full-time research, or less than full-time research on a pro rata basis. For purposes of this subsection, teaching institutions define "full-time";
  4. An educational program certified as Category 1 by an organization accredited by the Accreditation Council for Continuing Medical Education or the American Osteopathic Association;
  5. A medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of medicine and provided by an organization or institution accredited by the Accreditation Council for Continuing Medical Education or the American Osteopathic Association; and
  6. A homeopathic medical education course approved or offered by the Council on Homeopathic Education.
- E.** The following activities are approved by the Board as continuing education and do not require an application under R4-38-117 subject to the specified limitations:



1. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or other health care institution if serving as an instructor provides the licensee with an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee who serves as an instructor:
    - a. May claim one hour of continuing education for each hour of instruction up to a maximum of 10 hours, and
    - b. If the licensee teaches substantially the same class more than once, may claim hours of continuing education only for the first time the class is taught;
  2. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee who publishes or presents a paper, report, or book:
    - a. May claim one hour of continuing education for each hour preparing, writing, and presenting up to a maximum of 10 hours; and
    - b. May claim hours of continuing education only after the date of publication or presentation; and
  3. Participating in the following activities if the participation provides the licensee with an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee may claim one hour of continuing education for each hour of participation in the following activities up to a maximum of six hours:
    - a. Completing a self-instructed medical education program through the use of videotape, audiotape, film, filmstrip, radio broadcast, or computer;
    - b. Reading scientific journals and books;
    - c. Preparing for and obtaining specialty board certification or recertification; and
    - d. Participating on a staff or quality of care committee or utilization review committee in a hospital, health care institution, or government agency.
- F.** The Board shall approve a program or activity note listed in subsection (D) or (E) as continuing education if the provider of the program or activity makes application under R4-38-117 and the Board determines that the program or activity:
1. Is designed to provide the participant with:
    - a. Understanding of current developments, procedures, or treatments related to the practice of homeopathic medicine as defined at A.R.S. § 32-2901(22);
    - b. Knowledge and skills used to practice homeopathic medicine safely and competently; or
    - c. Knowledge and skills related directly or indirectly to patient care including practice management, medical ethics, or language necessary to the patient population served;
  2. Includes a method by which the participant evaluates the:
    - a. Stated objectives of the program or activity,
    - b. Instructor knowledge and teaching ability,
    - c. Effectiveness of the teaching methods used, and
    - d. Usefulness or applicability of the information provided; and
  3. Provides the participant with a certificate of attendance that shows the:
    - a. Name of the participant;
    - b. Name of the approved continuing education;
    - c. Name of the continuing education provider;
    - d. Date, time, and location of the continuing education; and
    - e. Hours of instruction provided.
- G.** Except as specified in subsection (H), a licensee who fails to comply with subsection (A) may submit to the Board a notice of 60-day extension. The licensee shall submit the notice of 60-day extension no later than the date indicated in R4-38-109(B). If a licensee who submits a notice of 60-day extension fails to comply with the continuing education requirement and submit the affirmation required by R4-38-109(E)(7) within the extension period, the licensee's license expires and the licensee shall immediately cease practicing homeopathic medicine. A licensee whose license expires may obtain licensure only by complying again with R4-38-108 and taking the examination specified in R4-38-107.
- H.** If a licensee fails to comply with subsection (A) because of disability, military service, absence from the U.S., or other circumstance beyond the control of the licensee, the licensee may submit to the Board a request for a temporary waiver of the continuing education requirement that includes the reason for noncompliance, the number of hours of continuing education completed, and the amount of time requested for the licensee to complete the continuing education requirement. The licensee shall submit the request for temporary waiver no later than the date specified in R4-38-109(B). The Board shall evaluate the request for temporary waiver and provide written notice to the licensee of the time within which the licensee shall comply with subsection (A).

#### Historical Note

New Section made by final rulemaking at 17 A.A.R.  
1980, effective November 12, 2011 (Supp. 11-3).

#### R4-38-117. Application for Continuing Education Approval

- A.** To obtain Board approval of a continuing education under R4-38-116(F), the provider of the continuing education shall submit the following to the Board at least 10 days before the meeting at which the Board will consider the continuing education for approval:
1. An application for approval, using a form available from the Board, which contains the following information:
    - a. Title of the continuing education;
    - b. Name and address of the continuing education provider;
    - c. Name and telephone and fax numbers of the contact person for the continuing education provider;
    - d. Date, time, and place at which the continuing education will be taught, if known;
    - e. Subject matter of the continuing education;
    - f. Objective of the continuing education;
    - g. Method of instruction; and
    - h. Number of continuing education hours requested; and
  2. The following documents:
    - a. Curriculum vitae of the continuing education instructor,
    - b. Detailed outline of the continuing education,
    - c. Agenda for the continuing education showing hours of instruction and subject matter taught in each hour,
    - d. Method by which participants will evaluate the continuing education, and
    - e. Certificate of attendance that meets the requirements of R4-38-116(F)(3).
- B.** A provider of continuing education shall not advertise that a continuing education is approved until the Board approves the application submitted under subsection (A).

## Board of Homeopathic and Integrated Medicine Examiners

- C. The Board's approval of a continuing education is valid for one year or until there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the provider of the continuing education shall reapply for approval.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R.  
1980, effective November 12, 2011 (Supp. 11-3).

**R4-38-118. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

- A. When notice of the need to renew a license is provided under R4-38-109(A), the Board shall also provide notice of an audit of continuing education records to a random sample of licensees.
- B. A licensee who is notified of a continuing education audit shall submit documentary evidence of compliance with the continuing education requirement at the same time that the licensee submits the renewal application required under R4-38-109(E).
- C. If a licensee subject to a continuing education audit fails to submit the required evidence no later than the date specified in R4-38-109(C), the licensee is considered to have committed an act of unprofessional conduct and is subject to probation or license suspension or revocation.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R.  
1980, effective November 12, 2011 (Supp. 11-3).

**ARTICLE 2. DISPENSING OF DRUGS BY HOMEOPATHIC PHYSICIANS****R4-38-201. Definitions**

In addition to the definitions in A.R.S. §§ 32-2901, 32-2933, and 32-2951, the following definitions apply in this Chapter:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug as defined in A.R.S. § 13-3401, narcotic drug as defined in A.R.S. § 13-3401, homeopathic medication, natural substance, or non-prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by a homeopathic physician, a homeopathic physician's nurse or assistant, or by the patient or research subject at a homeopathic physician's direction.
2. "Label" means a display of written, printed, or graphic matter on the immediate container of an article and, on the outside wrapper or container, if the display on the immediate wrapper or container is not easily legible through the outside wrapper.
3. "Labeling" means all labels and other written, printed, or graphic matter:
  - a. On an article or any of its containers or wrappers and
  - b. Accompanying the article.
4. "Manufacturer" means each person who prepares, derives, produces, compounds, processes, packages or repackages, or labels a drug in a place devoted to manufacturing the drug, but does not include a pharmacy, pharmacist, or physician.
5. "Natural substance" means an herbal phytotherapeutic or oxygen, carbon, or nitrogen-based therapeutic agent, vitamin, mineral, or food-factor concentrate isolated from animal, vegetable, or mineral sources for nutritional augmentation.
6. "Official compendium" means the latest revisions of the Pharmacopoeia of the United States and the Homeopathic

Pharmacopoeia of the United States, the latest revision of the National Formulary, or any current supplement.

7. "Packaging" means the act or process of placing a drug in a container to dispense or distribute the drug.
8. "Pharmaceutical drug" means a drug intended for use in preventing or curing disease or relieving pain.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).  
Amended by final rulemaking at 9 A.A.R. 1599, effective July 5, 2003 (Supp. 03-2).

**R4-38-202. General Provisions**

- A. A homeopathic physician shall not dispense unless the physician obtains from the Board a permit to dispense. The physician may renew the permit annually at the same time the license is renewed. The physician shall include the following on the permit application or renewal form:
1. The classes of drugs the physician will dispense, including controlled substances, pharmaceutical drugs, homeopathic medications, prescription-only drugs, natural substances, non-prescription drugs defined in A.R.S. § 32-1901(46), and devices defined in A.R.S. § 32-1901(18);
  2. The location where the physician will dispense; and
  3. A copy of the physician's current Drug Enforcement Administration (DEA) registration, or an affidavit averring that the physician does not possess a DEA registration and that the physician will not prescribe or dispense controlled substances.
- B. If a homeopathic physician determines that a shortage exists in a controlled substance maintained for dispensing, the physician shall immediately notify the Board, the local law enforcement agency, and the Department of Public Safety by telephone. The physician shall also provide written notification to the Board within seven days of the date of the discovery of the shortage.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).  
Amended by final rulemaking at 9 A.A.R. 1599, effective July 5, 2003 (Supp. 03-2).

**R4-38-203. Repealed****Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3). Section repealed by final rulemaking at 9 A.A.R. 1599, effective July 5, 2003 (Supp. 03-2).

**R4-38-204. Repealed****Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3). Section repealed by final rulemaking at 9 A.A.R. 1599, effective July 5, 2003 (Supp. 03-2).

**R4-38-205. Repealed****Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3). Section repealed by final rulemaking at 9 A.A.R. 1599, effective July 5, 2003 (Supp. 03-2).

**R4-38-206. Packaging**

In addition to the requirements of A.R.S. § 32-2951, a dispensing homeopathic physician shall dispense a controlled substance or prescription-only pharmaceutical drug in a light-resistant container with a consumer safety cap, unless the patient or patient's representative and the physician agree otherwise.

**Historical Note**

Adopted effective September 13, 1993 (Supp. 93-3).  
Amended by final rulemaking at 9 A.A.R. 1599, effective  
July 5, 2003 (Supp. 03-2).

**ARTICLE 3. EDUCATION, SUPERVISION, AND  
DELEGATION STANDARDS FOR REGISTRATION  
OF MEDICAL ASSISTANTS BY HOMEOPATHIC  
PHYSICIANS**

**R4-38-301. Definitions**

The definitions in A.R.S. §§ 32-2901, 32-2933, and 32-2951 apply to this Article. Additionally, in this Article:

“Advertisement” means a written, oral, or electronic communication, including a business card or telephone directory listing, which is intended, directly or indirectly, to inform a person that a medical assistant provides a homeopathic procedure.

“Delegated procedure” means a technical homeopathic function that a medical assistant is qualified to perform and is specified in the medical assistant’s Board-approved job description.

“Electrodermal testing device” means an instrument that is FDA-registered for the measurement of galvanic skin response.

“FDA” means the United States Food and Drug Administration.

“Homeopathic modality” means a method of diagnosis and treatment listed in the definition of the practice of homeopathic medicine at A.R.S. § 32-2901.

“Homeopathic repertorization” means to assess an individual’s symptoms and use a reference to determine the appropriate homeopathic remedy for each symptom.

“Homeotherapeutic instruction” means education regarding the signs, symptoms, and physical findings that lead to the recommendation of a particular substance or therapeutic procedure.

“Hour” means 60 minutes.

“Kinesiology” means the scientific study of human movement.

“Patient record,” as used in A.R.S. § 32-2936, means a medical record, as defined at A.R.S. § 12-2291.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1).  
Amended by final rulemaking at 16 A.A.R. 178, effective  
March 6, 2010 (Supp. 10-1).

**R4-38-302. Requirements to Supervise a Medical Assistant; Standards for Supervision**

- A. Before a homeopathic physician applies to the Board to register a medical assistant under R4-38-306, the homeopathic physician shall be licensed by the Board.
- B. When a homeopathic physician applies to the Board to register a medical assistant, the homeopathic physician shall submit evidence, as outlined in R4-38-103(C), that the homeopathic physician is qualified in the homeopathic modality of the procedure that will be delegated to the medical assistant.
- C. The Board shall find that a homeopathic physician is qualified in the homeopathic modality of the procedure that will be delegated to a medical assistant if the homeopathic physician submits with the application to register the medical assistant certificates of attendance or other evidence that the homeopathic physician completed postgraduate coursework in the

delegated homeopathic modality equal to or exceeding the number of hours specified in R4-38-103(C)(1) through (6).

**D. A homeopathic physician who supervises a registered medical assistant shall:**

1. Perform and document in the patient record the following for each patient for whom the medical assistant performs a delegated procedure:
  - a. Initial evaluation,
  - b. Treatment planning including any modification in the treatment plan, and
  - c. Re-evaluation of the patient’s health status every fourth visit and at the time of discharge or termination of treatment;
2. Respond within 15 minutes to a telephone call or other telecommunication from a medical assistant who performs a delegated procedure when the homeopathic physician is not physically present at the location at which the medical assistant is working;
3. Ensure that a note is placed in the patient record every time the medical assistant seeks direction from the homeopathic physician regarding a delegated procedure performed for a patient;
4. Ensure that the medical assistant performs only delegated procedures that are in the medical assistant’s Board-approved job description;
5. Provide a specific written order for any procedure delegated to and performed by the medical assistant for a patient;
6. Ensure that the specific written order required under subsection (D)(5) is placed in the patient record on the day that the medical assistant performs the delegated procedure;
7. Ensure that the medical assistant makes a contemporaneous note in the patient record of any procedure performed by the medical assistant for the patient;
8. Review, initial, and date the medical assistant notes placed in patient records within one week after each note is made and initial and date each note; and
9. Review with the medical assistant a patient’s response to treatments performed by the medical assistant:
  - a. Within three months of the initial visit,
  - b. After any significant change in the initial treatment plan, and
  - c. After an adverse reaction.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-302 renumbered to R4-38-303; new Section R4-38-302 made by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-303. Board Standards for a Formal Education Program****A. The Board establishes the following minimum standards for a formal education program in the subject area specified:**

1. Neuromuscular integration therapy procedures. A formal education program in neuromuscular integration therapy procedures shall:
  - a. Be provided at an educational institution and designed to qualify a graduate as a physical therapist assistant in a U.S. jurisdiction; or
  - b. Consist of 750 hours of educational training and 250 hours of supervised clinical experience in Feldenkrais, Roling, Hellerwork, Trager, Orthobionomy, Shiatsu, Reiki, Polarity, Jin Shin Jyutsu, or a similar therapy;

## Board of Homeopathic and Integrated Medicine Examiners

2. Homeopathic repertorization procedures. A formal education program in homeopathic repertorization procedures shall:
    - a. Be provided at an educational institution,
    - b. Be designed to train a graduate in classical homeopathy, and
    - c. Consist of the following:
      - i. 200 hours of education training, and
      - ii. 100 hours of supervised clinical experience, and
  3. Nutrition counseling and orthomolecular therapy procedures. A formal education program in nutrition counseling and orthomolecular therapy procedures shall:
    - a. Be provided at an educational institution, and
    - b. Consist of the following:
      - i. 500 hours of education training, and
      - ii. 175 hours of supervised clinical internship, or
    - c. Result in certification by the Clinical Nutrition Certification Board.
- B.** If a homeopathic physician applies to register as a medical assistant an individual who completed a formal education program in a homeopathic modality other than those listed in subsection (A), the homeopathic physician shall submit to the Board evidence that the program consists of educational training and clinical supervision that is substantially equivalent to the requirements specified in R4-38-103(C).

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Section repealed; new R4-38-303 renumbered from R4-38-302 and amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-304. Approved Practical Education Program; Renewal**

- A.** A homeopathic physician who wishes to provide on-the-job practical education to an unregistered individual shall apply for and obtain Board approval of a practical education program specifically designed for the unregistered individual before providing the practical education program.
- B.** The Board's approval of a practical education program is specific to the unregistered individual being trained. A homeopathic physician who wishes to provide on-the-job practical education to more than one unregistered individual shall apply for and obtain Board approval of a practical education program for each unregistered individual.
- C.** The Board shall approve a practical education program only if the program meets one of the following minimum standards:
  1. Neuromuscular integration therapy procedures. For each therapy listed in R4-38-303(A)(1)(b) in which practical education is provided, 375 hours of instruction and 125 hours of supervised clinical experience;
  2. Homeopathic repertorization procedures.
    - a. If performed with an electrodermal testing device or kinesiology, 180 hours of homeotherapeutic instruction including at least 45 hours of supervised clinical experience;
    - b. If performed without an electrodermal testing device or kinesiology, 200 hours of homeotherapeutic instruction and 100 hours of supervised clinical experience;
  3. Nutrition counseling and orthomolecular therapy procedures, 500 hours of instruction and 170 hours of supervised clinical experience; and
  4. Other homeopathic procedure. Hours of instruction and supervised clinical experience that the Board determines is sufficient to enable the unregistered individual being trained to perform as a medical assistant in a safe and competent manner.
- D.** To obtain the Board's approval of a practical education program, the homeopathic physician who will provide the training shall:
  1. Provide the following information on a form obtained from the Board:
    - a. Name of the unregistered individual for whom the practical education program is designed,
    - b. Residential address and telephone number of the unregistered individual,
    - c. Social Security number of the unregistered individual,
    - d. A training protocol that identifies the:
      - i. Homeopathic procedure in which the unregistered individual will be trained,
      - ii. Subject matter on which instruction will be provided and the hours devoted to each subject, and
      - iii. Manner in which supervised clinical experience will be provided,
    - e. Address at which the practical education program will be conducted,
    - f. Name of the homeopathic physician who will provide the practical education, and
    - g. License number of the homeopathic physician who will provide the practical education.
  2. Attach the following to the form required under subsection (D)(1):
    - a. Documentation of any previous on-the-job training or formal education, as described in R4-38-303, completed by the unregistered individual for whom the practical education program is designed;
    - b. Documentation that the homeopathic physician is qualified in the procedure in which training will be provided. For the procedures in which training may be provided, the Board shall accept certificates of attendance or other evidence that the homeopathic physician completed postgraduate course work in the homeopathic procedure to be taught equal to or exceeding the number of hours specified in R4-38-103(C)(1) through (6).
  3. Sign the application form affirming that the homeopathic physician shall:
    - a. Ensure that the unregistered individual being trained is not held out or represented to be a medical assistant,
    - b. Ensure that the unregistered individual is supervised at all times,
    - c. Ensure that the unregistered individual is assigned only tasks that the unregistered individual can perform safely and competently,
    - d. Ensure that the unregistered individual is not registered by the Board as a medical assistant before completing the practical education program, and
    - e. Provide the unregistered individual with a certificate or other evidence of completion when the unregistered individual completes the Board-approved practical education program. The homeopathic physician shall include the following information on the certificate or other evidence of completion:
      - i. Name of the unregistered individual completing the practical education program,
      - ii. Name and license number of the homeopathic physician who provided the practical education program,

- iii. Date on which Board approval was obtained for the practical education program,
  - iv. Dated signature of the homeopathic physician affirming that the practical education program completed met the standards established by the Board.
- E. The Board's approval of a practical education program is valid for one year. If the homeopathic physician who obtained approval of the practical education program does not complete providing the program within one year, the homeopathic physician may renew the program by submitting to the Board a letter affirming continued compliance with this Section and paying the fee listed in R4-38-105.

#### Historical Note

Adopted effective January 27, 1995 (Supp. 95-1).  
Amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

#### R4-38-305. Minimum Requirements for Registration of a Homeopathic Medical Assistant

- A. The Board shall approve the registration of an individual as a homeopathic medical assistant only if the homeopathic physician who will supervise the individual submits evidence that the individual:
- 1. Completed a formal education program that meets the standards at R4-38-303, or
  - 2. Completed a practical education program that is approved by the Board under R4-38-304.
- B. The Board shall approve the registration of an individual as a homeopathic medical assistant only if the individual is employed and supervised by a homeopathic physician who submits the evidence required under R4-38-302(C) showing that the homeopathic physician is qualified in the homeopathic modality in which the individual will work.

#### Historical Note

Adopted effective January 27, 1995 (Supp. 95-1). Section repealed; new Section R4-38-305 made by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

#### R4-38-306. Application to Register a Medical Assistant

- A. If a homeopathic physician intends that an individual who meets one of the minimum requirements listed in R4-38-305(A) work as a medical assistant, the homeopathic physician shall submit to the Board an application to register the individual within two weeks after employing the individual.
- B. To register an individual who meets one of the standards at R4-38-305(A) as a medical assistant, a homeopathic physician shall submit to the Board the following information on a form obtained from the Board:
- 1. About the individual being registered:
    - a. Name;
    - b. Residential address;
    - c. Residential and mobile telephone numbers;
    - d. E-mail address;
    - e. Social Security number;
    - f. Address of the practice location at which the individual will perform delegated procedures;
    - g. Telephone and fax numbers of the clinic at which the individual will perform delegated procedures;
    - h. Statement of whether the individual completed a formal education program that meets the standards at R4-38-303 or a practical education program approved by the Board under R4-38-304;
    - i. Statement of whether the individual is or ever has been licensed as a health care practitioner in a U.S.

jurisdiction in a profession subject to regulation by licensure in Arizona and if so:

- i. A list of all jurisdictions in which the individual is or ever has been licensed as a health care professional, and
  - ii. A list of the health care professions in which the individual is or ever has been licensed; and
  - iii. A statement whether the individual has ever been subject to a disciplinary proceeding by a health care regulatory board in any jurisdiction and if so, the jurisdiction, health care profession, date, and cause and result of the disciplinary proceeding;
  - j. Statement of whether the individual has ever been charged with or convicted of any criminal act and if so, the nature of the criminal act, date, jurisdiction, and current status;
  - k. Statement of whether the individual is a U.S. citizen and if not, whether the individual is an alien qualified to work in the U.S.; and
  - l. Dated signature of the individual being registered affirming that the information provided under subsections (B)(1)(a) through (k) is true, correct, and complete;
2. Description of the homeopathic procedures and other duties that will be delegated to the individual being registered, and
3. About the homeopathic physician:
- a. Name,
  - b. License number, and
  - c. Dated signature of the homeopathic physician affirming that:
    - i. All information provided, including the materials listed in subsection (C), is true, correct, and complete; and
    - ii. The homeopathic physician has reviewed the standards for supervision listed at R4-38-302 and agrees to comply with the standards.
- C. In addition to the form required under subsection (B), a licensed homeopathic physician applying to register an individual as a medical assistant shall attach the following materials to the form:
- 1. A curriculum vitae or resume of the individual being registered;
  - 2. If the individual being registered completed a formal education program that meets the standards at R4-38-303, an official transcript from the school, college, or technical institution that provided the program;
  - 3. If the individual being registered completed a practical education program approved by the Board under R4-38-304, a copy of the certificate or other evidence of completion required under R4-38-304;
  - 4. If the individual being registered has ever been charged with or convicted of any criminal act, a certified copy of the original charging document and a copy of all court documents relating to the individual's current status;
  - 5. If the individual being registered is not a U.S. citizen, a copy of the document that shows the individual is qualified to work in the U.S.;
  - 6. The evidence required under R4-38-302(C) showing that the homeopathic physician is qualified in the homeopathic modality to be delegated; and
  - 7. The fee required under R4-38-105.
- D. Multiple homeopathic physicians who work in the same medical practice may apply jointly to register one individual as a medical assistant. If multiple homeopathic physicians apply

## Board of Homeopathic and Integrated Medicine Examiners

jointly to register one individual as a medical assistant, each shall:

1. Provide the information and affirmation required under subsection (B)(3), and
  2. Provide the evidence required under subsection (C)(6).
- E.** A homeopathic physician who has registered a medical assistant may amend the medical assistant's job description provided under subsection (B)(2). To amend the job description of a registered medical assistant, the homeopathic physician shall submit to the Board:
1. A new job description that identifies the homeopathic procedures and other duties that will be delegated to the registered medical assistant,
  2. The documentation required under subsection (C)(2) or (3) showing that the registered medical assistant is qualified to perform the procedures and other duties to be delegated, and
  3. The evidence required under subsection (C)(6) showing that the homeopathic physician is qualified in the homeopathic modality to be delegated.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-306 renumbered to R4-38-309; new R4-38-306 renumbered from R4-38-308 and amended by final rulemaking at 16 A.A.R. 178, March 6, 2010 (Supp. 10-1).

**R4-38-307. Additional Requirements to Register a Previously Licensed Health Care Practitioner**

- A.** An individual who is or ever has been licensed as a health care practitioner in a U.S. jurisdiction in a profession subject to regulation by licensure in this state shall not attempt to practice the health care profession outside of this state's regulatory authority by obtaining registration as a medical assistant under this Chapter.
- B.** A homeopathic physician may register as a medical assistant an individual previously licensed or subject to professional regulation as a health care practitioner in a U.S. jurisdiction, only if the individual meets one of the standards in R4-38-305(A). To register as a medical assistant an individual previously licensed or subject to professional regulation as a health care practitioner in a U.S. jurisdiction, a homeopathic physician shall submit to the Board the application form and materials required under R4-38-306(B) and (C).
- C.** In addition to complying with subsection (B), a homeopathic physician applying to register as a medical assistant an individual previously licensed or subject to professional regulation as a health care professional in a U.S. jurisdiction shall submit to the Board an affidavit from the individual being registered stating the reason for which the individual seeks employment as a homeopathic medical assistant rather than as a licensed Arizona health care practitioner in accordance with the individual's professional training.
- D.** The Board shall conduct an investigation of the individual's health care professional practice in all jurisdictions in which the individual is or ever has been licensed. The Board shall ensure that the investigation is sufficient to determine whether the individual ever engaged in unprofessional conduct, was deemed incompetent, or was physically or mentally unable to provide health care services safely.
- E.** The Board shall conduct a personal interview with the homeopathic physician and the individual being registered to determine whether:
1. The description of homeopathic procedures and delegated duties provided under subsection (B) is accurate,

2. The supervisory relationship between the homeopathic physician and individual will not constitute a violation of A.R.S. § 32-2933(11),
3. The homeopathic physician understands the supervisory responsibilities, and
4. The individual being registered understands the limitations under this Article and applicable statutes.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-307 renumbered to R4-38-312; new R4-38-307 renumbered from R4-38-310 and amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-308. Renewal of Medical Assistant Registration**

- A.** The registration of a medical assistant expires:
1. When the medical assistant ceases to be employed by the homeopathic physician who registered the medical assistant, or
  2. When the supervising homeopathic physician fails to comply with subsection (B) by December 31.
- B.** To renew the registration of a medical assistant, on or before December 31 of each year, the supervising homeopathic physician shall submit to the Board:
1. A renewal application form, which is available from the Board, and provide the following information:
    - a. About the homeopathic physician.
      - i. Name;
      - ii. Name of medical facility at which the homeopathic physician is employed;
      - iii. Address of the medical facility;
      - iv. Telephone and fax numbers of the medical facility;
      - v. E-mail address of the homeopathic physician; and
      - vi. Dated signature of the homeopathic physician affirming that the information provided is true, correct, and complete;
    - b. About the medical assistant.
      - i. Name;
      - ii. Residential address;
      - iii. Residential telephone number;
      - iv. Homeopathic procedures delegated to the medical assistant;
      - v. Practice locations at which the medical assistant works;
      - vi. Statement of whether the medical assistant has been arrested or charged with a criminal act during the last year; and if so, the nature of the criminal act, date, jurisdiction, and current status; and
      - vii. Dated signature of the medical assistant affirming that the information provided is true, correct, and complete; and
  2. The fee specified in R4-38-105 for annual renewal of a medical assistant registration.
- C.** When a medical assistant's registration expires, the supervising homeopathic physician may register the medical assistant again by complying with R4-38-306.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-308 renumbered to R4-38-306; new Section R4-38-308 made by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-309. Restrictions on Delegated Procedures**

A homeopathic physician shall not delegate the following procedures to a registered medical assistant:

1. Psycho-therapeutic procedures, including individual or group psychotherapy, clinical hypnosis, or other behavioral health interventions subject to independent regulation in this state; or
2. Dispensing drugs, homeopathic agents, herbal products, natural products, or therapy devices if the supervising homeopathic physician has not obtained from the Board a dispensing permit.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-309 renumbered to R4-38-310; new R4-38-309 renumbered from R4-38-306 and amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-310. Registration Not Transferable; Multiple Employers**

**A.** The registration and job description of a medical assistant are not transferable from one employing homeopathic physician to another or from one medical assistant to another.

1. If a medical assistant changes from one employing homeopathic physician to another, the new employing homeopathic physician shall apply to the Board to register the medical assistant;
2. If a homeopathic physician employs a new medical assistant, the homeopathic physician shall apply to the Board to register the new medical assistant.

**B.** A medical assistant may be employed by more than one homeopathic physician.

1. If the multiple homeopathic physicians by whom a medical assistant is employed are part of the same medical practice, they shall apply jointly under R4-38-306(D) to register the medical assistant;
2. If the multiple homeopathic physicians by whom a medical assistant is employed are not part of the same medical practice, each shall apply under R4-38-306 to register the medical assistant.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Former R4-38-310 renumbered to R4-38-307; new R4-38-310 renumbered from R4-38-309 and amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-311. Responsibilities of a Registered Medical Assistant**

After approval by the Board, a registered medical assistant shall:

1. Perform only the homeopathic procedures and duties specified under R4-38-306(B)(2),
2. Wear a clearly labeled name tag stating the designation "medical assistant" and the specific homeopathic modality in which the registered medical assistant is approved to work, and
3. Ensure that any advertisement includes:
  - a. The designation "medical assistant,"
  - b. The name of the supervising physician, and
  - c. A clear indication of the supervised nature of the delegated procedures provided.

**Historical Note**

Adopted effective January 27, 1995 (Supp. 95-1). Section repealed, new Section made by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**R4-38-312. Unprofessional Conduct**

The following conduct by a homeopathic physician who supervises a medical assistant is unprofessional conduct because the conduct does or might constitute a danger to the health, welfare, or safety of the patient or the public:

1. Obtaining board approval for a practical education program or supervision of the medical assistant under false pretenses,
2. Failing to adhere to a standard for supervision listed in R4-38-302(D),
3. Failing to register and maintain registration for the medical assistant as required by this Article,
4. Allowing the medical assistant to perform a procedure not specified in the medical assistant's Board-approved job description,
5. Delegating a procedure to an individual who is not registered with the Board or for whom the homeopathic physician has not obtained approval of a practical education program,
6. Holding out or representing that an unregistered individual for whom the homeopathic physician is providing an approved practical education program is a medical assistant, and
7. Failing to ensure that the medical assistant complies with A.R.S. § 32-2933 and this Article.

**Historical Note**

New Section R4-38-312 renumbered from R4-38-307 and amended by final rulemaking at 16 A.A.R. 178, effective March 6, 2010 (Supp. 10-1).

**ARTICLE 4. APPLICATION AND RENEWAL PROCESS; TIME-FRAMES****R4-38-401. Definitions**

In this Article, the following terms apply:

1. "Application period" means 365 days, starting from the date an initial application and fee are received in the Board office under A.R.S. § 32-2912(F)(3) and (4).
2. "Deficiency notice" means a written, comprehensive list of missing information or documents.
3. "Prescribed fee" means a fee permitted by A.R.S. § 32-2914 or prescribed by R4-38-104.
4. "Serve" means sending the document by U.S. mail to the last address provided by the applicant.
5. "Staff" means any person employed or designated by the Board to perform administrative tasks.

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).

**R4-38-402. Application; Initial License, Permit, or Registration**

**A.** An applicant shall submit to the Board office a signed, notarized application form, the contents of which are described by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38; any supporting information required; and the prescribed fee. Within 90 days after receipt of an initial application package, staff shall finish an administrative completeness review.

1. If the application package is complete, staff shall serve the applicant with a written notice of administrative completeness informing the applicant of the date, time, and place of the Board's consideration of the application.
2. If the application package is deficient, staff shall serve the applicant with a written deficiency notice. The 90-day time-frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.

## Board of Homeopathic and Integrated Medicine Examiners

- B.** Except as otherwise provided by law, the applicant shall provide all missing information within 180 days after the date on the deficiency notice, including information from other agencies, institutions, and persons. If the applicant has not already done so, the applicant shall take the written examination prescribed in R4-38-105 within the 180 days.
- C.** Within 90 days after receipt of a complete initial application package, the Board shall render a decision on the initial license, permit, or registration. The applicant shall undergo the oral examination and interview prescribed in R4-38-106 within the 90 days.
1. If the Board finds the applicant meets the licensing requirements, the Board shall grant a license effective on the date that the Board receives the license issuance fee. If no license fee is required, the Board shall grant the permit or registration, which is effective on the date granted.
  2. If the Board finds the applicant does not meet the licensing requirements, the Board shall issue a written notice of denial of license.
  3. If the Board determines that there are substantive deficiencies in the application, the Board shall serve a single comprehensive written request for additional information.
  4. The 90-day substantive review time-frame is suspended from the date on the request for additional information until the date that all requested information is received. Except as otherwise provided by law, the applicant shall provide the requested information within 60 days from the date on the notice.
- D.** If an applicant fails to provide the information required in subsections (B) and (C), the Board shall determine whether to deny the application or to consider it withdrawn under A.R.S. § 32-2912(F).
- shall submit to the Board a renewal application form, the contents of which are prescribed by A.R.S. Title 32, Chapter 29 and 4 A.A.C. 38, and the appropriate fees.
- B.** Within 30 days after receipt of a renewal application package, staff shall notify the applicant that the package is either complete or deficient.
1. If the application package is complete, staff may serve the applicant with a written notice of administrative completeness. If the notice of administrative completeness is not served within 30 days after receipt of a renewal application package, the package is deemed complete.
  2. If the renewal application package is deficient, staff shall serve the applicant with a written deficiency notice. The 30-day time-frame for staff to finish the administrative completeness review is suspended from the date the deficiency notice is served until all missing information is received.
- C.** Except as otherwise provided by law, an applicant for renewal shall provide all missing information within 10 days after the date on the deficiency notice or by the applicable deadline prescribed in A.R.S. § 32-2915, whichever is later.
- D.** Within 90 days of receipt of a complete renewal application package, the Board shall either issue a license renewed notice, showing the effective year of renewal, or conduct a substantive review of those renewal applications which, when considered alone or in conjunction with additional information, raise a concern that the applicant's conduct may be in violation of A.R.S. Title 32, Chapter 29. The Board shall investigate and resolve such a concern under A.R.S. § 32-2934.
- E.** If an applicant for renewal fails to provide the missing information required by subsection (C), the license, permit, or registration expires effective January 1 of the renewal year for which the application was made and the Board shall not refund any renewal fees paid for that year.

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).

**R4-38-403. Application; Renewal of License, Permit, or Registration**

- A.** On or before the deadlines prescribed in A.R.S. § 32-2915(D), an applicant for renewal of a license, permit or registration

**Historical Note**

Adopted effective September 24, 1998 (Supp. 98-3).





**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### TITLE 6. ECONOMIC SECURITY

#### Chapter 5 – Department of Economic Security – Social Services

Sections, Parts, Exhibits, Tables or Appendices modified  
Appendix A

<input type="checkbox"/> <b>REMOVE</b>	Supp. 12-2 pages 1-168	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-168
--	---------------------------	---	-----------------------------------

#### Chapter 13 – Department of Economic Security – State Assistance Programs

Sections, Parts, Exhibits, Tables or Appendices modified  
Article 6, R6-13-601 through R6-13-604

<input type="checkbox"/> <b>REMOVE</b>	Supp. 12-2 pages 1-34	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-33
--	--------------------------	---	----------------------------------

This page intentionally left blank.

**TITLE 6. ECONOMIC SECURITY**  
**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY**  
**SOCIAL SERVICES**

(Authority: A.R.S. § 41-1954 et seq.)

*Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).*

*Editor's Note: Sections and Appendices of this Chapter were adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005 (A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules (Supp. 98-2).*

*Editor's Note: Sections of this Chapter were adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Under Laws 1997, Chapter 300, § 74(B), the Department is required to institute the formal rulemaking process on these Sections on or before December 31, 1997. Because these rules are exempt from the regular rulemaking process, the Chapter is printed on blue paper.*

**ARTICLE 1. REPEALED**

Former Article 1 consisting of Sections R6-5-01 through R6-5-103 repealed effective August 3, 1978.

**ARTICLE 2. REPEALED**

Former Article 2 consisting of Sections R6-5-201 through R6-5-209 repealed effective August 8, 1978.

**ARTICLE 3. REPEALED**

Former Article 3 consisting of Sections R6-5-301 through R6-5-308 repealed effective July 6, 1976.

**ARTICLE 4. REPEALED**

Former Article 4 consisting of Sections R6-5-401 through R6-5-420 repealed effective August 3, 1978.

**ARTICLE 5. REPEALED**

Former Article 5 consisting of Sections R6-5-501 through R6-5-504 repealed effective July 6, 1976.

**ARTICLE 6. REPEALED**

Former Article 6 consisting of Sections R6-5-601 through R6-5-622 repealed effective July 6, 1977.

**ARTICLE 7. REPEALED**

Former Article 7 consisting of Sections R6-5-701 through R6-5-716 repealed effective August 3, 1978.

**ARTICLE 8. REPEALED**

Former Article 8 consisting of Sections R6-5-801 through R6-5-808 repealed effective September 16, 1976.

**ARTICLE 9. REPEALED**

Former Article 9 consisting of Sections R6-5-901 through R6-5-904 repealed effective August 3, 1978.

**ARTICLE 10. REPEALED**

Former Article 10 consisting of Sections R6-5-1001 through R6-5-1003 repealed effective August 3, 1978.

**ARTICLE 11. REPEALED**

Former Article 11 consisting of Sections R6-5-1101 through R6-5-1109 repealed effective August 11, 1976.

**ARTICLE 12. REPEALED**

Former Article 12 consisting of Sections R6-5-1201 through R6-5-1206 repealed effective May 17, 1976.

**ARTICLE 13. REPEALED**

Former Article 13 consisting of Sections R6-5-1301 through R6-5-1309 repealed effective November 23, 1976.

**ARTICLE 14. REPEALED**

Former Article 14 consisting of Sections R6-5-1401 through R6-5-1413 repealed effective May 24, 1976.

**ARTICLE 15. REPEALED**

Former Article 15 consisting of Sections R6-5-1501 through R6-5-1504 repealed effective August 11, 1976.

**ARTICLE 16. RESERVED**

**ARTICLE 17. REPEALED**

Former Article 17 consisting of Sections R6-5-1701 through R6-5-1704 repealed effective August 11, 1976.

**ARTICLE 18. REPEALED**

Former Article 18 consisting of Sections R6-5-1801 through R6-5-1804 repealed effective August 11, 1976.

**ARTICLE 19. REPEALED**

Former Article 19 consisting of Sections R6-5-1901 through R6-5-1906 repealed effective July 6, 1976.

**ARTICLE 20. REPEALED**

Former Article 20 consisting of Sections R6-5-2001 through R6-5-2006 repealed effective December 17, 1993.

**ARTICLE 21. REPEALED**

Former Article 21 consisting of Sections R6-5-2101 through R6-5-2110 repealed effective November 8, 1982.

**ARTICLE 22. REPEALED**

Former Article 22 consisting of Sections R6-5-2202 through R6-5-2209 repealed effective November 8, 1982.

**ARTICLE 23. REPEALED**

Article 23, consisting of Sections R6-5-2301 through R6-5-2310, repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**ARTICLE 24. APPEALS AND HEARINGS**

Article 24 consisting of Sections R6-5-2401 through R6-5-2405 adopted effective March 1, 1978.

*Former Article 24 consisting of Sections R6-5-2401 through R6-5-2404 repealed effective March 1, 1978.*

Section	
R6-5-2401.	Expired
R6-5-2402.	Expired
R6-5-2403.	Expired
R6-5-2404.	Basis for a hearing
R6-5-2405.	Hearing process

#### **ARTICLE 25. REPEALED**

*Former Article 25, consisting of Sections R6-5-2501 through R6-5-2503, repealed effective June 5, 1997 (Supp. 97-2).*

#### **ARTICLE 26. REPEALED**

*Former Article 26, consisting of Sections R6-5-2601 through R6-5-2607, repealed effective June 5, 1997 (Supp. 97-2).*

#### **ARTICLE 27. REPEALED**

*Former Article 27, consisting of Sections R6-5-2701 through R6-5-2707, repealed effective June 5, 1997 (Supp. 97-2).*

#### **ARTICLE 28. REPEALED**

*Former Article 28, consisting of Sections R6-5-2801 through R6-5-2804, repealed effective November 8, 1982.*

#### **ARTICLE 29. REPEALED**

*Article 29, consisting of Sections R6-5-2901 through R6-5-2912, repealed effective December 17, 1993 (Supp. 93-4).*

#### **ARTICLE 30. REPEALED**

*Former Article 30, consisting of Sections R6-5-3001 through R6-5-3007, repealed effective August 29, 1984.*

#### **ARTICLE 31. REPEALED**

*Former Article 31, consisting of Sections R6-5-3101 through R6-5-3110, repealed effective November 8, 1982.*

#### **ARTICLE 32. REPEALED**

*Article 32, consisting of Sections R6-5-3201 through R6-5-3211, repealed effective December 17, 1993 (Supp. 93-4).*

#### **ARTICLE 33. RESERVED**

#### **ARTICLE 34. RESERVED**

#### **ARTICLE 35. RESERVED**

#### **ARTICLE 36. RESERVED**

#### **ARTICLE 37. RESERVED**

#### **ARTICLE 38. RESERVED**

#### **ARTICLE 39. RESERVED**

#### **ARTICLE 40. RESERVED**

#### **ARTICLE 41. RESERVED**

#### **ARTICLE 42. RESERVED**

#### **ARTICLE 43. RESERVED**

#### **ARTICLE 44. RESERVED**

#### **ARTICLE 45. RESERVED**

#### **ARTICLE 46. RESERVED**

#### **ARTICLE 47. RESERVED**

#### **ARTICLE 48. RESERVED**

### **ARTICLE 49. CHILD CARE ASSISTANCE**

*Article 49, consisting of Sections R6-5-4901 through R6-5-4922 and Appendix A, adopted effective July 31, 1997 (Supp. 97-3).*

Section	
R6-5-4901.	Definitions
R6-5-4902.	Repealed
R6-5-4903.	Repealed
R6-5-4904.	Access to Child Care Assistance
R6-5-4905.	Initial Eligibility Interview
R6-5-4906.	Verification of Eligibility Information
R6-5-4907.	Withdrawal of an Application
R6-5-4908.	Child Care Assistance Approvals and Denials
R6-5-4909.	12-Month Review
R6-5-4910.	Reinstatement of Assistance
R6-5-4911.	General Eligibility Criteria
R6-5-4912.	Eligible Activity or Need
R6-5-4913.	Applicants and Recipients as Child Care Providers
R6-5-4914.	Income Eligibility Criteria
R6-5-4915.	Fee Level and Copayment Assignment
R6-5-4916.	Special Eligibility Criteria
R6-5-4917.	Waiting List for Child Care Assistance
R6-5-4918.	Authorization of Child Care Assistance
R6-5-4919.	Time Limit for Child Care Assistance
R6-5-4920.	Denial or Termination of Child Care Assistance
R6-5-4921.	Notification Requirements
R6-5-4922.	Repealed
R6-5-4923.	Overpayments
R6-5-4924.	Appeals
R6-5-4925.	Maximum Reimbursement Rates For Child Care
Appendix A.	Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule
Appendix B.	Maximum Reimbursement Rates for Child Care

### **ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM**

*New Article 50, consisting of Sections R6-5-5001 through R6-5-5010, adopted effective November 19, 1996 (Supp. 96-4).*

*Former Article 50, consisting of Sections R6-5-5001 through R6-5-5007, repealed effective November 8, 1982 (Supp. 82-6).*

Section	
R6-5-5001.	Definitions
R6-5-5002.	Provider Participation Requirements
R6-5-5003.	Notification of Changes
R6-5-5004.	Referrals Not Guaranteed
R6-5-5005.	Referral Process
R6-5-5006.	Monitoring; Complaint Recording and Reporting Requirements
R6-5-5007.	Provider Listing Status
R6-5-5008.	Provider Exclusion or Removal
R6-5-5009.	Administrative Review Process
R6-5-5010.	Administrative Appeal Process

#### **ARTICLE 51. EXPIRED**

*Article 51, consisting of Sections R6-5-5101 through R6-5-5107, expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).*

*Article 51, consisting of Sections R6-5-5101 through R6-5-5107, adopted effective June 17, 1985.*

*Former Article 51, consisting of Sections R6-5-5101 through R6-5-5104, repealed effective June 17, 1985.*

Section	
R6-5-5101.	Expired
R6-5-5102.	Expired

R6-5-5103. Expired  
 R6-5-5104. Expired  
 R6-5-5105. Expired  
 R6-5-5106. Expired  
 R6-5-5107. Expired

## **ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS**

*Article 52, consisting of Sections R6-5-5201 through R6-5-5211, repealed effective May 11, 1994 (Supp. 94-2).*

*Article 52, consisting of Sections R6-5-5201 through R6-5-5227, adopted effective May 11, 1994 (Supp. 94-2).*

### **Section**

R6-5-5201. Definitions  
 R6-5-5202. Initial Application for Certification  
 R6-5-5203. Initial Certification: The Home Facility  
 R6-5-5204. Initial Certification: Department Responsibilities  
 R6-5-5205. Certification Time-frames  
 R6-5-5206. Certificates: Issuance; Nontransferability  
 R6-5-5207. Maintenance of Certification: General Requirements; Training  
 R6-5-5208. Recertification Requirements  
 R6-5-5209. Program and Equipment  
 R6-5-5210. Safety; Supervision  
 R6-5-5211. Sanitation  
 R6-5-5212. Discipline  
 R6-5-5213. Evening And Nighttime Care  
 R6-5-5214. Children Younger than Age 2  
 R6-5-5215. Children with Special Needs  
 R6-5-5216. Transportation  
 R6-5-5217. Meals and Nutrition  
 R6-5-5218. Health Care; Medications  
 R6-5-5219. Recordkeeping; Unusual incidents; Immunizations  
 R6-5-5220. Provider/Child Ratios  
 R6-5-5221. Change Reporting Requirements  
 R6-5-5222. Use of a Backup Provider  
 R6-5-5223. Claims For Payment  
 R6-5-5224. Complaints; Investigations  
 R6-5-5225. Probation  
 R6-5-5226. Certification, Denial, Suspension, and Revocation  
 R6-5-5227. Adverse Actions; Notice Effective Date  
 R6-5-5228. Appeals

## **ARTICLE 53. REPEALED**

*Former Article 53 consisting of Sections R6-5-5301 through R6-5-5305 repealed effective April 9, 1981.*

## **ARTICLE 54. REPEALED**

*Former Article 54 consisting of Sections R6-5-5401 through R6-5-5411 repealed effective November 8, 1982.*

## **ARTICLE 55. CHILD PROTECTIVE SERVICES**

*Article 55, consisting of Sections R6-5-5501 through R6-5-5504, adopted effective December 8, 1983.*

*Former Article 55, consisting of Sections R6-5-5501 through R6-5-5526, repealed effective December 8, 1983.*

### **Section**

R6-5-5501. Definitions  
 R6-5-5502. Receipt and Screening of Information; Child Abuse Hotline  
 R6-5-5503. Non-Reports  
 R6-5-5504. Preliminary Screening Classifications  
 R6-5-5505. Priority Codes; Initial Response Time  
 R6-5-5506. Methods for Investigation of Reports

R6-5-5507. Alternative Investigation  
 R6-5-5508. Conduct of a Field Investigation  
 R6-5-5509. Establishing Probable Cause of Child Maltreatment  
 R6-5-5510. Investigation Findings; Required Documentation  
 R6-5-5511. Ongoing Services; Imminent Harm Not Identified; Case Closure  
 R6-5-5512. Procedures for Substantiated Reports; Removal; Imminent Harm  
 R6-5-5513. Alternatives to Involuntary Removal; Voluntary Placement; Removal  
 R6-5-5514. Removal Review  
 R6-5-5515. Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency  
 R6-5-5516. Procedures for Investigations of Out-of-Home Care Providers  
 R6-5-5517. Repealed  
 R6-5-5518. Repealed  
 R6-5-5519. Repealed  
 R6-5-5520. Repealed  
 R6-5-5521. Repealed  
 R6-5-5522. Repealed  
 R6-5-5523. Repealed  
 R6-5-5524. Repealed  
 R6-5-5525. Repealed  
 R6-5-5526. Repealed  
 Appendix 1. Pre-screening Cue Questions  
 Appendix 2. Cue Questions

## **ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS**

*Article 56, consisting of new Sections R6-5601 through R6-5-5612, adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).*

*Article 56, consisting of Sections R6-5-5601 through R6-5-5624, recodified to A.A.C. R6-8-201 through R6-8-224 effective February 13, 1996 (Supp. 96-1).*

### **Section**

R6-5-5601. Definitions  
 R6-5-5602. Scope and Application  
 R6-5-5603. Procedures for Requesting Information  
 R6-5-5604. Procedures for Processing a Request for Information  
 R6-5-5605. Release of Information in Situations Requiring Immediate Action or Service to a Child  
 R6-5-5606. Release of Report and Investigation Findings  
 R6-5-5607. Release of Summary Information to a Person Who Reported Suspected Child Abuse and Neglect  
 R6-5-5608. Release of Information to a Research or Evaluation Project  
 R6-5-5609. Release of Information to a Legislative Committee  
 R6-5-5610. Release of Information to a State Official  
 R6-5-5611. Release of Information to an Individual Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect or Abandonment Who Has Died  
 R6-5-5612. Fees

## **ARTICLE 57. REPEALED**

*Article 57, consisting of Sections R6-5-5701 thru R6-5-5709, repealed effective April 9, 1998 (Supp. 98-2).*

*Article 57, consisting of Sections R6-5-5701 through R6-5-5709, adopted effective November 5, 1984.*

*Former Article 57, consisting of Sections R6-5-5701 through R6-5-5711, repealed effective November 5, 1984.*

**ARTICLE 58. FAMILY FOSTER PARENT LICENSING REQUIREMENTS**

*Article 58, consisting of Sections R6-5-5801 through R6-5-5850, adopted effective January 10, 1997 (Supp. 97-1).*

*Former Article 58, consisting of Sections R6-5-5801 through R6-5-5807, repealed effective January 10, 1997 (Supp. 97-1).*

*Article 58, consisting of Sections R6-5-5801 through R6-5-5807, adopted effective April 1, 1981.*

*Former Article 58, consisting of Sections R6-5-5801 through R6-5-5811, repealed effective April 1, 1981.*

**Section**

R6-5-5801.	Definitions
R6-5-5802.	Application for Initial License
R6-5-5803.	Investigation of the Applicant
R6-5-5804.	Inspection of the Foster Home; DHS Inspection Report
R6-5-5805.	Investigative Report and Licensing Recommendation
R6-5-5806.	Complete Application Package: Contents
R6-5-5807.	CPSCR Check; Additional Investigation by Licensing Authority
R6-5-5808.	License: Form; Issuance; Denial; Term; Termination
R6-5-5809.	Provisional License
R6-5-5810.	Application for License Renewal
R6-5-5811.	Renewal Investigation; Licensing Report and Recommendation
R6-5-5812.	Renewal License
R6-5-5813.	Licensing Time-frames
R6-5-5814.	Amended License; Change in Household Members
R6-5-5815.	Monitoring the Foster Home and Family
R6-5-5816.	Investigation of Complaints about a Foster Home
R6-5-5817.	Licensing Authority Action On Complaints
R6-5-5818.	Corrective Action
R6-5-5819.	License Denial, Suspension, and Revocation
R6-5-5820.	Adverse Action; Notice; Effective Date
R6-5-5821.	Appeals
R6-5-5822.	Alternative Methods of Compliance
R6-5-5823.	Foster Parent: General Qualifications
R6-5-5824.	Foster Parent: Personal Characteristics
R6-5-5825.	Training and Development
R6-5-5826.	Compliance With Licensing Limitations; Adult - Child Ratios
R6-5-5827.	Placement Agreement
R6-5-5828.	Participation in Case Planning
R6-5-5829.	Daily Care and Treatment of a Foster Child; Foster Child Rights
R6-5-5830.	Medical and Dental Care
R6-5-5831.	Child Care
R6-5-5832.	Transportation
R6-5-5833.	Behavior Management; Discipline; Prohibitions
R6-5-5834.	Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events
R6-5-5835.	Notification of Events or Changes Involving the Foster Family or the Foster Home
R6-5-5836.	Maintenance of a Foster Child's Records
R6-5-5837.	Confidentiality
R6-5-5838.	Foster Home: General Requirements
R6-5-5839.	Foster Home: General Safety Measures
R6-5-5840.	Exterior Environment; Play Area; Play Equipment
R6-5-5841.	Swimming Pools and Pool Safety
R6-5-5842.	Bedrooms; Bedding; Sleeping Arrangements
R6-5-5843.	Bathrooms
R6-5-5844.	Kitchen

R6-5-5845.	Fire Safety and Prevention
R6-5-5846.	Emergencies, Exits, and Evacuation
R6-5-5847.	Special Provisions for a Receiving Foster Home
R6-5-5848.	Special Provisions for a Respite Foster Home
R6-5-5849.	Special Provisions for an In-home Respite Foster Parent
R6-5-5850.	Special Provisions for a Professional Foster Home

**ARTICLE 59. GROUP FOSTER HOME LICENSING STANDARDS****Section**

R6-5-5901.	Expired
R6-5-5902.	Expired
R6-5-5903.	Definitions
R6-5-5904.	Responsibilities of the Department
R6-5-5905.	Expired
R6-5-5906.	Licensing Requirements
R6-5-5907.	Denial, Suspension, or Revocation of a License
R6-5-5908.	Re-licensing Requirements
R6-5-5909.	Standards for Licensing and Operating Group Foster Homes
R6-5-5910.	Confidentiality
R6-5-5911.	Expired
R6-5-5912.	Expired

**ARTICLE 60. COMPREHENSIVE MEDICAL/DENTAL PROGRAM FOR FOSTER CHILDREN****Section**

R6-5-6001.	Objective
R6-5-6002.	Authority
R6-5-6003.	Definitions
R6-5-6004.	Eligibility
R6-5-6005.	Definition of Covered Services
R6-5-6006.	Exceptions, Limitations and Exclusions
R6-5-6007.	Prior Authorization
R6-5-6008.	Coordination of Benefits
R6-5-6009.	Identification Card
R6-5-6010.	Payment and Review of Claims
R6-5-6011.	Abuse and Misuse of the Program
R6-5-6012.	Consent for Treatment
R6-5-6013.	Administration of the Program
R6-5-6014.	Case Management
R6-5-6015.	Fee Schedule
Exhibit 1.	Repealed

**ARTICLE 61. REPEALED**

*Article 61, consisting of Sections R6-5-6101 through R6-5-6104, repealed effective June 5, 1997 (Supp. 97-2).*

*Article 61, consisting of Sections R6-5-6101 through R6-5-6104, adopted effective August 29, 1984.*

*Former Article 61, consisting of Sections R6-5-6101 through R6-5-6108, repealed effective August 29, 1984.*

**ARTICLE 62. REPEALED**

*Former Article 62 consisting of Sections R6-5-6201 through R6-5-6209 repealed effective August 29, 1984.*

**ARTICLE 63. REPEALED**

*Former Article 63 consisting of Sections R6-5-6301 through R6-5-6304 repealed effective November 8, 1982.*

**ARTICLE 64. REPEALED**

*Former Article 64 consisting of Sections R6-5-6401 through R6-5-6408 repealed effective February 1, 1979.*

# **ARTICLE 65. DEPARTMENT ADOPTION FUNCTIONS AND PROCEDURES FOR PROVIDING ADOPTION SERVICES**

*Article 65, consisting of Sections R6-5-6501 through R6-5-6511, adopted effective January 2, 1996 (Supp. 96-1).*

*Article 65, consisting of Sections R6-5-6501 through R6-5-6509, repealed effective January 2, 1996 (Supp. 96-1).*

## Section

R6-5-6501.	Definitions
R6-5-6502.	Central Adoption Registry; Information Maintained; Confidentiality
R6-5-6503.	Expired
R6-5-6503.01.	Expired
R6-5-6504.	Department Adoption Services
R6-5-6505.	Department Procedures for Processing Certification Applications
R6-5-6506.	Department Priorities for Receipt of Services
R6-5-6507.	Department Recruitment Efforts
R6-5-6508.	Referrals to Other Sources
R6-5-6509.	Fees
R6-5-6510.	International Adoptions
R6-5-6511.	Termination of Services

# **ARTICLE 66. ADOPTION SERVICES**

*Article 66, consisting of Sections R6-5-6601 through R6-5-6624, adopted effective January 2, 1996 (Supp. 96-1).*

*Article 66, consisting of Sections R6-5-6601 through R6-5-6610, repealed effective January 2, 1996 (Supp. 96-1).*

## Section

R6-5-6601.	Definitions
R6-5-6602.	Recruitment
R6-5-6603.	Orientation: Persons Interested in Adoption
R6-5-6604.	Application for Certification; Fees; Waiver
R6-5-6605.	Certification Investigation
R6-5-6606.	Certification Report and Recommendation
R6-5-6607.	Renewal of Certification
R6-5-6608.	Communications with Certified Parents Awaiting Placement
R6-5-6609.	Prohibitions Regarding Birth Parents
R6-5-6610.	Information about Birth Parents
R6-5-6611.	Pre-consent Conferences with Birth Parents
R6-5-6612.	Consent to Adopt; Unknown Birth Parent
R6-5-6613.	Adoptable Child: Assessment and Service Plan
R6-5-6614.	Placement Determination
R6-5-6615.	Provision of Information on Placed Child
R6-5-6616.	Transportation
R6-5-6617.	Expired
R6-5-6618.	Placement Services
R6-5-6619.	Post-placement Supervision: Non-foster Parent Placements
R6-5-6620.	Post-placement Supervision: Foster Parent Placements
R6-5-6621.	Protracted Placements
R6-5-6622.	Finalizing the Placement
R6-5-6623.	Placement Disruption
R6-5-6624.	Confidentiality

# **ARTICLE 67. ADOPTION SUBSIDY**

## Section

R6-5-6701.	Definitions
R6-5-6702.	Eligibility Criteria
R6-5-6703.	Eligibility Determination
R6-5-6704.	Adoption Subsidy Agreement

R6-5-6705.	Medical, Dental, and Mental Health Subsidy
R6-5-6706.	Maintenance Subsidy
R6-5-6707.	Special Services Subsidy
R6-5-6708.	Nonrecurring Adoption Expenses
R6-5-6709.	Annual Review; Reporting Change
R6-5-6710.	Termination of Adoption Subsidy
R6-5-6711.	New or Amended Adoption Subsidy Agreement
R6-5-6712.	Appeals
R6-5-6713.	Renumbered

# **ARTICLE 68. REPEALED**

*Former Article 68, consisting of Sections R6-5-6801 through R6-5-6808, repealed effective June 5, 1997 (Supp. 97-2).*

# **ARTICLE 69. CHILD PLACING AGENCY LICENSING STANDARDS**

## Section

R6-5-6901.	Objectives
R6-5-6902.	Authority
R6-5-6903.	Definitions
R6-5-6904.	Licensing Requirements
R6-5-6905.	Denial, Suspension, or Revocation of a License
R6-5-6906.	License Renewal Requirements
R6-5-6907.	Standards for Licensing and Operating a Child Placing Agency
R6-5-6908.	Confidentiality
R6-5-6909.	Civil Rights
R6-5-6910.	Fair Labor Standards Act

# **ARTICLE 70. ADOPTION AGENCY LICENSING**

*Article 70, consisting of Sections R6-5-7001 through R6-5-7040, adopted effective January 2, 1996 (Supp. 96-1).*

*Article 70, consisting of Sections R6-5-7001 through R6-5-7040, repealed effective January 2, 1996 (Supp. 96-1).*

*Article 70 consisting of Sections R6-5-7001 through R6-5-7040 adopted as permanent rules effective January 23, 1987.*

*Article 70 consisting of Sections R6-5-7001 through R6-5-7040 adopted as an emergency effective October 17, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.*

*Article 70 consisting of Sections R6-5-7001 through R6-5-7006 adopted as an emergency effective January 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency renewed effective April 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.*

## Section

R6-5-7001.	Definitions
R6-5-7002.	Who Shall Be Licensed
R6-5-7003.	Licensing: Initial Application; Fee
R6-5-7004.	Licensing: Out-of-state Agencies
R6-5-7005.	Department Procedures for Processing License Applications
R6-5-7006.	License: Issuance; Denial
R6-5-7007.	License: Term; Nontransferability
R6-5-7008.	Application for License Renewal; Fee
R6-5-7009.	Renewal License: Issuance
R6-5-7010.	Amended License
R6-5-7011.	Governing Body
R6-5-7012.	Agency Administrator
R6-5-7013.	Social Services Director
R6-5-7014.	Social Workers
R6-5-7015.	Agency Employees: Hiring; References; Fingerprinting
R6-5-7016.	Agency Volunteers; Interns

R6-5-7017. Personnel Records  
 R6-5-7018. Training Requirements  
 R6-5-7019. Contracted Services  
 R6-5-7020. Staffing Ratios  
 R6-5-7021. Operations Manual  
 R6-5-7022. Agency Operations Budget; Financial Records  
 R6-5-7023. Annual Financial Audit  
 R6-5-7024. Insurance Coverage  
 R6-5-7025. Protecting Confidentiality of Adoption Records  
 R6-5-7026. Recordkeeping Requirements: Adoptive Children  
 R6-5-7027. Recordkeeping Requirements: Adoptive Parents  
 R6-5-7028. Reporting Requirements: Abuse; Unauthorized Practice; Changes; Registry Information  
 R6-5-7029. Birth Parent: Service Agreement; Prohibitions  
 R6-5-7030. Adoption Fees; Reasonableness  
 R6-5-7031. Adoption Fee Agreement  
 R6-5-7032. AHCCCS Reimbursement; Disclosure of Third-party Coverage  
 R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit  
 R6-5-7034. Complaints; Investigations  
 R6-5-7035. Noncompliance Status  
 R6-5-7036. Suspension  
 R6-5-7037. Revocation  
 R6-5-7038. Adverse Action: Procedures  
 R6-5-7039. Appeals  
 R6-5-7040. International Adoptions

#### ARTICLE 71. REPEALED

*Article 71, consisting of Sections R6-5-7101 through R6-5-7104, repealed effective April 9, 1998 (Supp. 98-2).*

*Article 71, consisting of Sections R6-5-7101 through R6-5-7104, adopted as permanent rules effective July 11, 1986.*

*Former Article 71, consisting of Sections R6-5-7101 through R6-5-7104, adopted as an emergency effective January 1, 1986 and renewed as an emergency effective April 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency effective April 1, 1986 expired.*

*Former Article 71, consisting of Sections R6-5-7101 through R6-5-7104, repealed effective November 8, 1982.*

#### ARTICLE 72. REPEALED

*Former Article 72 consisting of Sections R6-5-7201 through R6-5-7214 repealed effective July 12, 1984.*

#### ARTICLE 73. REPEALED & RENUMBERED

*Article 73, consisting of Sections R6-5-7301 through R6-5-7306 and R6-5-7309, repealed; Sections R6-5-7307 and R6-5-7308 renumbered to Sections in Article 74, filed with the Secretary of State's Office May 15, 1997; effective July 1, 1997 (Supp. 97-2). Effective date corrected Supp. 98-2.*

*Article 73 consisting of Sections R6-5-7301 through R6-5-7309 adopted effective January 21, 1985.*

*Former Article 73, consisting of Sections R6-5-7301 through R6-5-7320, repealed effective February 26, 1979.*

#### ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS

*Article 74, consisting of Sections R6-5-7401 through R6-5-7469, and Appendix 1 adopted; and Sections R6-5-7470 and R6-5-7471 renumbered from Article 73 and amended effective July 1,*

*1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Effective date corrected Supp. 98-2.*

*Former Article 74, consisting of Sections R6-5-7401 through R6-5-7413, repealed effective May 15, 1997 (Supp. 97-2).*

#### Section

R6-5-7401. Definitions  
 R6-5-7402. Request for Initial Application - New Applicant  
 R6-5-7403. Letter of Intent - New Applicant  
 R6-5-7404. The Licensing Consultation; Time for Completion of Application  
 R6-5-7405. Complete Application; Initial License - New Applicant  
 R6-5-7406. Site Inspection  
 R6-5-7407. Licensing Study  
 R6-5-7408. Licensing Decision: Issuance; Denial; Time-Frames  
 R6-5-7409. Licenses and Operating Certificates: Form; Term; Nontransferability  
 R6-5-7410. Licensed Agency: Application for an Operating Certificate for an Additional Satellite Facility  
 R6-5-7411. Application for Renewal of License and Operating Certificates  
 R6-5-7412. Renewal of License and Operating Certificates: Site Inspection; Time-frames; Standard for Issuance  
 R6-5-7413. Notification to Licensing Authority of Changes Affecting License; Staff Changes  
 R6-5-7414. Amended License or Operating Certificate  
 R6-5-7415. Alternative Method of Compliance  
 R6-5-7416. Monitoring  
 R6-5-7417. Complaints; Investigations  
 R6-5-7418. Corrective Action  
 R6-5-7419. Provisional License  
 R6-5-7420. Denial, Suspension, and Revocation of a License or Operating Certificate  
 R6-5-7421. Adverse Action; Procedures; Effective Date  
 R6-5-7422. Appeals  
 R6-5-7423. Statement of Purpose; Program Description and Evaluation; Compliance With Adopted Policies; Client Rights; Single Category of Care  
 R6-5-7424. Governing Body  
 R6-5-7425. Business and Fiscal Management; Annual Audit  
 R6-5-7426. Insurance Coverage  
 R6-5-7427. Confidentiality  
 R6-5-7428. Children's Records: Contents; Maintenance; Destruction  
 R6-5-7429. Grievances  
 R6-5-7430. Staff Management and Staff Records  
 R6-5-7431. General Qualifications for Staff  
 R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions  
 R6-5-7433. Orientation and Training for Staff  
 R6-5-7434. Notification of Unusual Incidents and Other Occurrences  
 R6-5-7435. Investigations of Child Maltreatment  
 R6-5-7436. Runaways and Missing Children  
 R6-5-7437. Staff Coverage; Staff-child Ratios  
 R6-5-7438. Admission and Intake; Criteria; Process; Restrictions  
 R6-5-7439. Information and Services Provided to Placing Agency or Person  
 R6-5-7440. Orientation Process for a Child in Care  
 R6-5-7441. Child's Service Plan: Preparation; Review; Planning Participants  
 R6-5-7442. Discharge; Discharge Summary  
 R6-5-7443. Personal Care of Children  
 R6-5-7444. Children's Clothing and Personal Belongings



- R6-5-7445. Children's Money; Restitution
- R6-5-7446. Nutrition, Menus, and Food Service
- R6-5-7447. Sleeping Arrangements
- R6-5-7448. Visitation, Outings, Mail, and Telephones
- R6-5-7449. Educational and Vocational Services; Work Assignments
- R6-5-7450. Recreation, Leisure, Cultural Activities, and Community Interaction
- R6-5-7451. Religion, Culture, and Ethnic Heritage
- R6-5-7452. Medical and Health Care
- R6-5-7453. Medications
- R6-5-7454. Storage of Medications
- R6-5-7455. Children's Medical and Dental Records
- R6-5-7456. Behavior Management
- R6-5-7457. Body Searches
- R6-5-7458. Buildings; Grounds; Water Supply
- R6-5-7459. Building Interior
- R6-5-7460. Kitchens; Food Preparation; and Dining Areas
- R6-5-7461. Sleeping Areas and Furnishings
- R6-5-7462. Bathrooms
- R6-5-7463. Other Facility Space; Staff Quarters
- R6-5-7464. Fire, Emergency, and Fire Prevention
- R6-5-7465. General Safety
- R6-5-7466. Swimming Areas
- R6-5-7467. Access; Transportation; Outings
- R6-5-7468. Special Provisions for Shelter Care Facilities
- R6-5-7469. Special Provisions and Exemptions for Outdoor Experience Programs
- R6-5-7470. Planning Requirements for Outdoor Experience Programs
- R6-5-7471. Special Physical Environment and Safety Requirements for Outdoor Experience Programs

## Appendix 1.

**ARTICLE 75. APPEAL AND HEARING PROCEDURES FOR ADVERSE ACTION AGAINST FAMILY FOSTER HOMES, ADOPTION AGENCIES, FAMILY CHILD CARE HOME PROVIDERS, AND PERSONS LISTED ON THE CHILD CARE RESOURCE AND REFERRAL SYSTEM**

*New Article 75, consisting of Sections R6-5-7501 through R6-5-7508, adopted effective June 4, 1998 (98-2).*

*Former Article 75, consisting of Sections R6-5-7501 through R6-5-7508, repealed effective November 8, 1982.*

- |            |  |
|------------|--|
| Section    |  |
| R6-5-7501. | Definitions  |
| R6-5-7502. | Entitlement to a Hearing; Appealable Action          |
| R6-5-7503. | Computation of Time                                  |
| R6-5-7504. | Request for Hearing: Form; Time Limits; Presumptions |
| R6-5-7505. | Administration: Transmittal of Appeal                |
| R6-5-7506. | Stay of Adverse Action Pending Appeal                |
| R6-5-7507. | Hearings: Location; Notice; Time                     |
| R6-5-7508. | Rescheduling the Hearing                             |
| R6-5-7509. | Hearing Officer: Duties and Qualifications           |
| R6-5-7510. | Change of Hearing Officer; Challenges for Cause      |
| R6-5-7511. | Subpoenas  |
| R6-5-7512. | Parties' Rights                                      |
| R6-5-7513. | Withdrawal of an Appeal                              |
| R6-5-7514. | Failure to Appear; Default; Reopening                |
| R6-5-7515. | Hearing Proceedings                                  |
| R6-5-7516. | Hearing Decision                                     |
| R6-5-7517. | Effect of the Decision                               |
| R6-5-7518. | Further Administrative Appeal                        |
| R6-5-7519. | Appeals Board  |
| R6-5-7520. | Judicial Review                                      |

**ARTICLE 76. REPEALED**

*Article 76, consisting of Sections R6-5-7601 through R6-5-7639, repealed effective December 17, 1993 (Supp. 93-4).*

**ARTICLE 77. REPEALED**

*Former Article 77 consisting of Sections R6-5-7701 through R6-5-7704 repealed effective November 8, 1982.*

**ARTICLE 78. REPEALED**

*Former Article 78 consisting of Sections R6-5-7801 through R6-5-7804 repealed effective November 8, 1982.*

**ARTICLE 79. REPEALED**

*Former Article 79 consisting of Sections R6-5-7901 through R6-5-7913 repealed effective November 8, 1982.*

**ARTICLE 80. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**

- |            |                          |
|------------|--------------------------|
| Section    |                          |
| R6-5-8001. | Goals                    |
| R6-5-8002. | Objectives               |
| R6-5-8003. | Authority                |
| R6-5-8004. | Definitions              |
| R6-5-8005. | Placement Agreement      |
| R6-5-8006. | Financial Responsibility |
| R6-5-8007. | Eligibility              |
| R6-5-8008. | Placement Approval       |
| R6-5-8009. | Case Management          |
| R6-5-8010. | Terminating the Service  |

**ARTICLE 81. REPEALED**

*Former Article 81 consisting of Sections R6-5-8101 through R6-5-8104 repealed effective November 8, 1982.*

**ARTICLE 82. REPEALED**

*Former Article 82 consisting of Sections R6-5-8201 through R6-5-8204 repealed effective November 8, 1982.*

**ARTICLE 83. REPEALED**

*Article 83, consisting of Sections R6-5-8301 through R6-5-8308, repealed effective December 17, 1993 (Supp. 93-4).*

**ARTICLE 84. REPEALED**

*Former Article 84 consisting of Sections R6-5-8401 through R6-5-8404 repealed effective November 8, 1982.*

**ARTICLE 85. REPEALED**

*Former Article 85 consisting of Sections R6-5-8501 through R6-5-8508 repealed effective November 8, 1982.*

**ARTICLE 86. REPEALED**

*Article 86, consisting of Sections R6-5-8601 through R6-5-8604, repealed effective December 17, 1993 (Supp. 93-4).*

*Article 86 consisting of Sections R6-5-8601 through R6-5-8604 adopted effective March 8, 1979.*

*Former Article 86 consisting of Sections R6-5-8601 through R6-5-8611 repealed effective March 8, 1979.*

**ARTICLE 87. REPEALED**

*Article 87, consisting of Sections R6-5-8701 through R6-5-8704, repealed effective December 17, 1993 (Supp. 93-4).*

**ARTICLE 88. REPEALED**

*Former Article 88 consisting of Sections R6-5-8801 through R6-5-8804 repealed effective November 8, 1982.*

**ARTICLE 89. RESERVED****ARTICLE 90. RESERVED****ARTICLE 91. REPEALED**

Article 91, consisting of Sections R6-5-9101 through R6-5-9104, repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 92. REPEALED**

Article 92, consisting of Sections R6-5-9201 through R6-5-9204, repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 93. REPEALED**

Former Article 93 consisting of Sections R6-5-9301 through R6-5-9304 repealed effective November 8, 1982.

**ARTICLE 94. REPEALED**

Former Article 94 consisting of Sections R6-5-9401 through R6-5-9404 repealed effective November 8, 1982.

**ARTICLE 95. REPEALED**

Former Article 95 consisting of Sections R6-5-9501 through R6-5-9504 repealed effective November 8, 1982.

**ARTICLE 96. REPEALED**

Former Article 96 consisting of Sections R6-5-9601 through R6-5-9604 repealed effective November 8, 1982.

**ARTICLE 97. REPEALED**

Former Article 97 consisting of Sections R6-5-9701 through R6-5-9704 repealed effective November 8, 1982.

**ARTICLE 98. REPEALED**

Former Article 98 consisting of Sections R6-5-9801 through R6-5-9804 repealed effective November 8, 1982.

**ARTICLE 99. REPEALED**

Former Article 99 consisting of Sections R6-5-9901 through R6-5-9904 repealed effective November 8, 1982.

**ARTICLE 100. REPEALED**

Former Article 100 consisting of Sections R6-5-10001 through R6-5-10004 repealed effective November 8, 1982.

**ARTICLE 101. REPEALED**

Former Article 101 consisting of Sections R6-5-10101 through R6-5-10104 repealed effective November 8, 1982.

**ARTICLE 102. REPEALED**

Former Article 102 consisting of Sections R6-5-10201 through R6-5-10204 repealed effective November 8, 1982.

**ARTICLE 103. REPEALED**

Former Article 103 consisting of Sections R6-5-10301 through R6-5-10304 repealed effective November 8, 1982.

**ARTICLE 104. REPEALED**

Article 104, consisting of Sections R6-5-10401 through R6-5-10404, repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 105. REPEALED**

Article 105, consisting of Sections R6-5-10501 through R6-5-10504, repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 106. REPEALED**

Former Article 106 consisting of Sections R6-5-10601 through R6-5-10604 repealed effective November 8, 1982.

**ARTICLE 107. REPEALED**

Former Article 107 consisting of Sections R6-5-10701 through R6-5-10704 repealed effective November 8, 1982.

**ARTICLE 108. REPEALED**

Former Article 108 consisting of Sections R6-5-10801 through R6-5-10804 repealed effective November 8, 1982.

**ARTICLE 109. REPEALED**

Former Article 109 consisting of Sections R6-5-10901 through R6-5-10904 repealed effective November 8, 1982.

**ARTICLE 110. REPEALED**

Former Article 110 consisting of Sections R6-5-11001 through R6-5-11004 repealed effective November 8, 1982.

**ARTICLE 1. REPEALED**

Former Article 1 consisting of Sections R6-5-01 through R6-5-103 repealed effective August 3, 1978.

**ARTICLE 2. REPEALED**

Former Article 2 consisting of Sections R6-5-201 through R6-5-209 repealed effective August 8, 1978.

**ARTICLE 3. REPEALED**

Former Article 3 consisting of Sections R6-5-301 through R6-5-308 repealed effective July 6, 1976.

**ARTICLE 4. REPEALED**

Former Article 4 consisting of Sections R6-5-401 through R6-5-420 repealed effective August 3, 1978.

**ARTICLE 5. REPEALED**

Former Article 5 consisting of Sections R6-5-501 through R6-5-504 repealed effective July 6, 1976.

**ARTICLE 6. REPEALED**

Former Article 6 consisting of Sections R6-5-601 through R6-5-622 repealed effective July 6, 1977.

**ARTICLE 7. REPEALED**

Former Article 7 consisting of Sections R6-5-701 through R6-5-716 repealed effective August 3, 1978.

**ARTICLE 8. REPEALED**

Former Article 8 consisting of Sections R6-5-801 through R6-5-808 repealed effective September 16, 1976.

**ARTICLE 9. REPEALED**

Former Article 9 consisting of Sections R6-5-901 through R6-5-904 repealed effective August 3, 1978.

**ARTICLE 10. REPEALED**

Former Article 10 consisting of Sections R6-5-1001 through R6-5-1003 repealed effective August 3, 1978.

**ARTICLE 11. REPEALED**

Former Article 11 consisting of Sections R6-5-1101 through R6-5-1109 repealed effective August 11, 1976.

**ARTICLE 12. REPEALED**

Former Article 12 consisting of Sections R6-5-1201 through R6-5-1206 repealed effective May 17, 1976.

**ARTICLE 13. REPEALED**

*Former Article 13 consisting of Sections R6-5-1301 through R6-5-1309 repealed effective November 23, 1976.*

**ARTICLE 14. REPEALED**

*Former Article 14 consisting of Sections R6-5-1401 through R6-5-1413 repealed effective May 24, 1976.*

**ARTICLE 15. REPEALED**

*Former Article 15 consisting of Sections R6-5-1501 through R6-5-1504 repealed effective August 11, 1976.*

**ARTICLE 16. RESERVED****ARTICLE 17. REPEALED**

*Former Article 17 consisting of Sections R6-5-1701 through R6-5-1704 repealed effective August 11, 1976.*

**ARTICLE 18. REPEALED**

*Former Article 18 consisting of Sections R6-5-1801 through R6-5-1804 repealed effective August 11, 1976.*

**ARTICLE 19. REPEALED**

*Former Article 19 consisting of Sections R6-5-1901 through R6-5-1906 repealed effective July 6, 1976.*

**ARTICLE 20. REPEALED****R6-5-2001. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2001 repealed, new Section R6-5-2001 adopted effective May 17, 1976 (Supp. 76-3). Amended as an emergency effective August 3, 1976 (Supp. 76-4). Former Section R6-5-2001 repealed, new Section R6-5-2001 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2002. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2002 repealed, new Section R6-5-2002 adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Former Section R6-5-2002 repealed, new Section R6-5-2002 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2003. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2003 repealed, new Section R6-5-2003 adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2003 repealed, new Section R6-5-2003 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2004. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2004 repealed, new Section R6-5-2004 adopted effective May 17, 1976

(Supp. 76-3). Amended as an emergency effective August 3, 1976 (Supp. 76-4). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2004 repealed, new Section R6-5-2004 adopted effective November 8, 1982 (Supp. 82-6). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1983, through June 30, 1984, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 83-3). Exhibit I, Title XX, Social Services Plan, incorporated herein by reference, amended as an emergency effective September 30, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Emergency expired. Permanent amendment adopted effective January 3, 1984 (Supp. 84-1). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1984, through June 30, 1985, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 84-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1985, through June 30, 1986, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 85-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 2, 1986, through June 30, 1987, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 86-4). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period September 24, 1987, through June 30, 1988, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 87-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period September 22, 1988, through June 30, 1989, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 88-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2), of this rule, is adopted for the program period July 1, 1989, through June 30, 1990, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 89-3). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2005. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2005 repealed, new Section R6-5-2005 adopted effective November 8, 1982 (Supp. 82-6). A new Exhibit I, Title XX, Social Services Plan, referred to in subsection (1) of this rule, is adopted for the program period September 22, 1988 through July 30, 1989 (Supp. 88-3). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2006. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Repealed effective November 8, 1982 (Supp. 82-6).

**ARTICLE 21. REPEALED**

*Former Article 21 consisting of Sections R6-5-2101 through R6-5-2110 repealed effective November 8, 1982.*

**ARTICLE 22. REPEALED**

*Former Article 22 consisting of Sections R6-5-2202 through R6-5-2209 repealed effective November 8, 1982.*

**ARTICLE 23. REPEALED****R6-5-2301. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2301 repealed, new Section R6-5-2301 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2302. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2302 repealed, new Section R6-5-2302 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2303. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2303 repealed, new Section R6-5-2303 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2304. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2304 repealed, new Section R6-5-2304 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2305. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2305 repealed, new Section R6-5-2305 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2306. Repealed****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2306 repealed, new Section R6-5-2306 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2307. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2308. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2309. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-2310. Repealed****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**ARTICLE 24. APPEALS AND HEARINGS**

*Article 24 consisting of Sections R6-5-2401 through R6-5-2405 adopted effective March 1, 1978.*

*Former Article 24 consisting of Sections R6-5-2401 through R6-5-2404 repealed effective March 1, 1978.*

**R6-5-2401. Expired****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2401 repealed, new Section R6-5-2401 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2401 repealed, new Section R6-5-2401 adopted effective March 1, 1978 (Supp. 78-2). Section expired under A.R.S. § 41-1056(E) at 18 A.A.R. 607, effective October 31, 2011 (Supp. 12-1).

**R6-5-2402. Expired****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2402 repealed, new Section R6-5-2402 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2402 repealed, new Section R6-5-2402 adopted effective March 1, 1978 (Supp. 78-2). Section expired under A.R.S. § 41-1056(E) at 18 A.A.R. 607, effective October 31, 2011 (Supp. 12-1).

**R6-5-2403. Expired****Historical Note**

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2403 repealed, new Section R6-5-2403 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2403 repealed, new Section R6-5-2403 adopted effective March 1, 1978 (Supp. 78-2). Section expired under A.R.S. § 41-1056(E) at 18 A.A.R. 607, effective October 31, 2011 (Supp. 12-1).

**R6-5-2404. Basis for a hearing**

**A.** A person will be granted a hearing for any of the following reasons:

1. Right to apply for social services has been denied.
2. Application is denied in whole or in part.
3. Action on an application has not been taken by the Department within 30 days of the date of application.
4. Service is suspended, terminated or reduced when such action has occurred as a result of an eligibility determination.

- B.** Change in law or policy. A hearing shall not be granted when a change in federal or state law or policy requires service adjustments or discontinuance for classes of recipients.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2404 repealed, new Section R6-5-2404 adopted effective March 1, 1978 (Supp. 78-2).

**R6-5-2405. Hearing process**

**A.** Filing of appeal

1. A request for a hearing shall be filed in writing with the Department or provider within 15 calendar days after the mailing date of the decision letter, except that for appeals on denying, revoking or suspending a license of a child welfare agency or foster home the request shall be filed within 20 calendar days.
2. Except as otherwise provided by statute or by Department regulation, any appeal, application, request, notice, report, or other information or document submitted to the Department shall be considered received by and filed with the Department:
  - a. If transmitted via the United States Postal Service or its successor, on the date it is mailed. The mailing date will be as follows:
    - i. As shown by the postmark.
    - ii. In the absence of a postmark the postage-meter mark of the envelope in which it is received;
    - iii. If not postmarked or postage-meter marked, or if the mark is illegible, the date entered on the document as the date of completion.
  - b. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
  - c. The submission of any appeal, application, request, notice, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation or to delay or other action of the United States Postal Service or its successor.
  - d. Any notice, determination, decision or other data mailed by the Department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the notice, determination, decision or other data unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, 16 A.R.S.
3. Benefits shall not be reduced or terminated prior to a hearing decision unless due to a subsequent change in household eligibility another notice of adverse action is received and not timely appealed.
4. The local office or provider shall advise the client of any community legal services available and, when requested, shall assist in completing the hearing request.

**B.** Notice of hearing

1. Hearings will be held at the local office or any other place mutually agreed upon by the hearing officer and appellant. They shall be scheduled not less than 20 nor more than 30 days from the date of filing of the request for hearing. The appellant shall be given no less than 15 days notice of hearing, except that the appellant may waive the notice period or request a delay. For appeals on deny-

ing, revoking or suspending a license of a child welfare agency or foster home, however, the hearing shall be held within ten days of the date of filing of the request for hearing.

2. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and of his rights to: present his case in person or through a representative; examine and copy any documents in his case file and all documents and records to be used by the agency at the hearing at a reasonable time prior to the hearing as well as at the hearing; obtain assistance from the local office in preparing his case; and of his opportunity to make inquiry at the local office about the availability of community legal resources which could provide representation at the hearing.
3. Appellant, in lieu of a personal appearance, may submit a written statement, under oath or affirmation, setting forth the facts of the case provided that the statement is submitted to the Department prior to or at the time of the hearing. All parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing, and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
4. The hearing officer may take such action for the proper disposition of an appeal as he deems necessary, and on his own motion, or at the request of any interested party upon a showing of good cause disqualify himself, or may continue the hearing to a future time or reopen a hearing before a decision is final to take additional evidence. If an interested party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or may make his decision upon record and such evidence as may be presented at the scheduled hearing. If, within ten days of the scheduled hearing, appellant files a written application requesting reopening of the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice of the time, place, and purpose of any continued, reopened or rescheduled hearing shall be given to all interested parties.

**C.** Prehearing summary

1. A prehearing summary of the facts and grounds for the action taken shall be prepared and forwarded to the hearing officer no less than four days prior to the hearing.
2. The summary shall be provided to the appellant prior to the commencement of the hearing.

**D.** Subpoena of witnesses. The hearing officer may subpoena any witnesses or documents requested by the Department or claimant to be present at the hearing. The request shall be in writing and shall state the name and address of the witness and the nature of his testimony. The nature of the witnesses' testimony must be relevant to the issues of the hearing, otherwise the hearing officer may deny the request. The request for the issuance of a subpoena shall be made to give sufficient time, a minimum of three working days, prior to the hearing. A subpoena requiring the production of records and documents shall specifically describe them in detail and further set forth the name and address of the custodian thereof.

**E.** Review of file. In the presence of a Department representative, the appellant and/or his authorized representative shall be permitted to review, obtain or copy any Department record necessary for the proper presentation of the case.

**F.** Conduct of the hearing

1. Hearings shall be conducted in an orderly and dignified manner.
  2. Hearings are opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence and shall direct the order of proof. He shall have power to administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses, the production of books, papers, correspondence, memoranda and other records he deems necessary as evidence in connection with a hearing.
  3. Evidence not related to the issue shall not be allowed to become a part of the record.
  4. The hearing officer may, on his own motion, or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
  5. The worker, supervisor or other appropriate person may be designated Department representative for the hearing.
  6. The appellant and Department representative may testify, present evidence, cross-examine witnesses and present arguments.
  7. The appellant may appear for himself or be represented by an attorney or any other person he designates.
  8. A full and complete record shall be kept of all proceedings in connection with an appeal, and such records shall be open for inspection by the claimant or his representative at a place accessible to him. A transcript of the proceedings need not, however, be made unless it is required for further proceedings. When a transcript has been made for further proceedings, a copy shall be furnished without cost to each interested party.
- G. Hearing decision**
1. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Department rules governing the issues in dispute.
  2. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons thereof. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and their attorneys of record not more than 60 days from the date of filing the request for appeal, unless the delay was caused by the appellant.
  3. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
  4. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the hearing officer specifically finds appropriate.
  5. When a hearing decision upholds the proposed action of reducing, suspending or terminating a grant, an overpayment is the result.
  6. All hearing decisions will be made accessible to the public, subject to meeting the provision for safeguarding confidential information relating to the client.
  7. Decision of the hearing officer will be the final decision of the Department unless a reconsideration is requested in accordance with subsection (I).
- H. Withdrawal of appeal.** An appeal may be withdrawn as follows:
1. Voluntary withdrawal. This may be accomplished by completing and signing the proper Department form or by submitting a letter properly signed.
  2. Abandonment or involuntary withdrawal. This occurs when an appellant fails to appear at a scheduled hearing and within ten days thereof fails to request a rescheduled hearing or fails to appear at a rescheduled hearing which he has requested. A hearing may not be considered abandoned if the claimant provides notification up to the time of the hearing that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing.
- I. Reconsideration**
1. An appellant, within ten calendar days after the decision was mailed or otherwise delivered to him, may request the Director to review the decision. The request shall be in writing and should set forth a statement of the grounds for review, and may be filed personally or by mail.
  2. After receipt of an application for leave to appeal, the Director shall:
    - a. Deny the application, or
    - b. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or
    - c. Grant the application and decide the appeal on the record.
  3. The Director shall promptly adopt his decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, shall be distributed to each interested party.

**Historical Note**

Adopted effective March 1, 1978 (Supp. 78-2).

**ARTICLE 25. REPEALED****R6-5-2501. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-2501 repealed, new Section R6-5-2501 adopted effective February 26, 1979 (Supp. 79-1).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2502. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-2502 repealed, new Section R6-5-2502 adopted effective February 26, 1979 (Supp. 79-1).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2503. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**ARTICLE 26. REPEALED****R6-5-2601. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2602. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2603. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2604. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2605. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2606. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2607. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**ARTICLE 27. REPEALED****R6-5-2701. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2702. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2703. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2704. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2705. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2706. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-2707. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

**ARTICLE 28. REPEALED**

*Former Article 28 consisting of Sections R6-5-2801 through R6-5-2804 repealed effective November 8, 1982.*

**ARTICLE 29. REPEALED****R6-5-2901. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2902. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2903. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2904. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2905. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2906. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2907. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2908. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2909. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2910. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2911. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-2912. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 30. REPEALED**

*Former Article 30, consisting of Sections R6-5-3001 through R6-5-3007, repealed effective August 29, 1984.*

**ARTICLE 31. REPEALED**

*Former Article 31, consisting of Sections R6-5-3101 through R6-5-3110, repealed effective November 8, 1982.*

**ARTICLE 32. REPEALED**

**R6-5-3201. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3202. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3203. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3204. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3205. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3206. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3207. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3208. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3209. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3210. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-3211. Repealed****Historical Note**

Adopted effective November 22, 1978 (Supp. 78-6).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 33. RESERVED****ARTICLE 34. RESERVED****ARTICLE 35. RESERVED****ARTICLE 36. RESERVED****ARTICLE 37. RESERVED****ARTICLE 38. RESERVED****ARTICLE 39. RESERVED****ARTICLE 40. RESERVED****ARTICLE 41. RESERVED****ARTICLE 42. RESERVED****ARTICLE 43. RESERVED****ARTICLE 44. RESERVED****ARTICLE 45. RESERVED****ARTICLE 46. RESERVED****ARTICLE 47. RESERVED****ARTICLE 48. RESERVED****ARTICLE 49. CHILD CARE ASSISTANCE**

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4901. Definitions**

The following definitions apply to this Article:

1. "Adequate notice" means written notification that explains the action the Department intends to take, the reason for the action, the specific authority for the action, the client's appeal rights, and right to benefits pending appeal, and that is mailed before the effective date of the action.
2. "Appellant" means an applicant or recipient of assistance who is appealing a negative action by the Department.
3. "Availability" means the portion of time that a parent or caretaker can provide care to their own child, as determined by the Department, because the parent or caretaker is not participating in an eligible activity.
4. "Applicant" means a person who has filed an application for Child Care Assistance.
5. "Authorized" means the specific amount of Child Care Assistance approved by the Department for an eligible family for a specific period of time.
6. "CCA" means the DES Child Care Administration.
7. "Caretaker relative" means a relative who exercises the responsibility for the day-to-day physical care, guidance, and support of a child who physically resides with the relative.
8. "Cash Assistance" means the program administered by the Family Assistance Administration that provides temporary Cash Assistance to needy families.
9. "Cash Assistance participant" means a recipient of Cash Assistance.
10. "Child care" means the compensated service the Department provides to a child who is unaccompanied by a parent or guardian during a portion of a 24-hour day.
11. "Child Care Assistance" means money payments for child care services paid by the Department for the benefit of an eligible family.
12. "Child Care Provider" means a child care facility licensed under A.R.S. Title 36, Chapter 7.1, Article 4, child care home providers, in-home providers, noncertified relative providers, and regulated child care on military installations or federally recognized Indian Tribes.
13. "Client" means a person who has requested, has been referred for, or who is currently receiving Child Care Assistance.



14. "Countable income" means the gross income of individuals included in family size that the Department considers to determine eligibility and calculate an assistance amount.
15. "CPS or Child Protective Services" means the child welfare services administration within the Department's Division of Children, Youth, and Family Services.
16. "Day" means a calendar day unless otherwise specified.
17. "DDD" means the Division of Developmental Disabilities.
18. "Denial" means a formal decision of ineligibility on an application, referral, or request for Child Care Assistance.
19. "Department" means the Arizona Department of Economic Security.
20. "Dependent" child means a person less than age 18, who resides with the applicant and whom the applicant has the legal financial obligation to support.
21. "DES-certified child care provider" means a provider who is certified by the Department of Economic Security under A.R.S. § 46-807 and who provides care in either the child's or the provider's own home.
22. "DHS-certified group home" means a provider who is certified by the Department of Health Services under A.R.S. § 36-897.01.
23. "DHS-licensed child care center" means a provider who is licensed by the Department of Health Services as prescribed in A.R.S. § 36-881.
24. "EITC" means Earned Income Tax Credit and is a federal income tax credit for low-income working individuals and families.
25. "Eligibility criteria" means the requirements an individual or family must meet to receive Child Care Assistance.
26. "Eligible activity" means a specific type of activity that causes an applicant or recipient and any other parent or responsible person in the eligible family to be unavailable to provide care to their children for a portion of a 24-hour day, and that partially determines the amount of Child Care Assistance an eligible family shall receive.
27. "Eligible child" means a child less than 13 years of age.
28. "Eligible family" means a group of persons whose needs, income, and other circumstances are considered as a whole for the purpose of determining eligibility and amount of Child Care Assistance.
29. "Eligible need" means a specific type of need that causes an applicant or recipient, or any other parent or responsible person in the eligible family, to be unavailable or incapable to provide child care to their children for a portion of a 24-hour day, and that partially determines the amount of Child Care Assistance an eligible family shall receive.
30. "E.S.O.L." means English for Speakers of Other Languages.
31. "Existing client" means an individual who is currently receiving Child Care Assistance or who has an open Child Care Assistance case with the Department.
32. "Family size" means the number of individuals considered when determining income eligibility, and includes the applicant, other parent or responsible person, and their dependent children who reside in the same household, subject to R6-5-4914 (D).
33. "Federal poverty level" (FPL) means the poverty guidelines issued by the United States Department of Health and Human Services under Section 673(2) of the Omnibus Reconciliation Act of 1981; and reported annually in the Federal Register; which are converted into monthly amounts by the Department; which shall become effective for use in determining eligibility for Child Care Assistance on the first day of the state fiscal year immediately following the publication of the annual amount in the Federal Register.
34. "Foster care" means that the Department or an Arizona Tribe placed a child in the custody of a licensed foster parent.
35. "Foster parent" means any person licensed by the Department or an Arizona Tribe to provide for the out of home care, custody, and control of a child.
36. "Gap in employment" means a period of 30 consecutive days of Child Care Assistance that begins the first day after the last day worked and ends the 30th day after the last day worked for an existing client who has lost employment.
37. "G.E.D." means General Equivalency Diploma.
38. "Homebound" means a person who is confined to their home because of physical or mental incapacity.
39. "Homeless shelter" means a public or private nonprofit program that is targeted to assist homeless families and is designed to provide temporary or transitional living accommodations and services to assist such families toward self-sufficiency.
40. "Income" means earned and unearned income combined.
41. "Jobs" means the Department program that assists Cash Assistance participants to prepare for, obtain, and retain employment. "Jobs" Program also includes the Tribal Jobs Program and any other entities that contract with the state to perform this function.
42. "Jobs participant" means a Cash Assistance participant who is participating in the Jobs program as a condition of receiving Cash Assistance.
43. "Local office" means a CCA location that is designated as the location in which Child Care Assistance applications and other documents are filed with the Department and in which eligibility and assistance amounts are determined for a particular geographic area of the state.
44. "Lump sum income" means a single payment of earned or unearned income, such as a retroactive monthly benefit, non-recurring pay adjustment or bonus, inheritance, or personal injury and workers' compensation award.
45. "Mailing date" when used in reference to a document sent first-class, postage prepaid, through the United States mail, means the date:
  - a. Shown on the postmark;
  - b. Shown on the postage meter mark of the envelope, if there is no postmark; or
  - c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
46. "Minor parent" means a parent less than the age of 18 years.
47. "Negative action" means one of the Department actions described in R6-5-4918, including action to terminate assistance or increase the fee level and copayment for Child Care Assistance.
48. "Noncertified relative provider" means a person who is at least 18 years of age, who is by blood, marriage, or adoption the grandparent, great grandparent, sibling not residing in the same household, aunt, great aunt, uncle or great uncle of the eligible child, who provides child care services to an eligible child, and meets the Department's requirements to be a noncertified relative provider.
49. "Notice date" means the date that appears as the official date of issuance on a document or official written notice

- the Department sends or gives to an applicant or recipient.
50. “OSI” or “Office of Special Investigations” means the Department office to which CCA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies and other similar functions.
  51. “Other related child” means a child who is related to the applicant or recipient by blood, marriage, or adoption, and who is not the applicant’s or recipient’s natural, step, or adoptive child.
  52. “Overpayment” means a Child Care Assistance payment received by a child care provider or for an eligible family that exceeds the amount to which the provider or family was lawfully entitled.
  53. “Parent” means the biological mother or father whose name appears on the birth certificate, the person legally acknowledged as a mother or father, a father who has had an adjudication of paternity, or the adoptive mother or father of the child.
  54. “Positive action” means the approval, increase, or resumption of service such as increasing the amount of assistance or decreasing the fee level and copayment.
  55. “Recipient” means a person who is a member of an eligible family receiving Child Care Assistance.
  56. “Relative” means a person who is by blood, adoption, or marriage a parent, grandparent, great-grandparent, sibling of the whole or half blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-uncle, or first cousin.
  57. “Request for Hearing” means a clear written expression by an applicant or recipient, or such person’s representative, indicating a desire to appeal a Department decision to a higher authority.
  58. “Responsible person” means one or more persons, residing in the same household, who have the legal responsibility to financially support:
    - a. One or more of the children for whom Child Care Assistance is being requested, or
    - b. The applicant or recipient of Child Care Assistance.
  59. “Review” means the Department’s review of all factors affecting an eligible family’s eligibility and assistance amount.
  60. “Self-Sufficiency Declaration” means a written statement signed and dated by the child care recipient that lists the specific actions the recipient has taken during the most recent six or 12-month period to maintain or increase self-sufficiency.
  61. “Tax Claimant” means a relative more than age 17 who resides with a parent who has applied for or is receiving Child Care Assistance, and who states their intention to claim any member of the eligible family as a tax dependent on a federal or state income tax return for the current calendar year, to be filed in the following calendar year.
  62. “Tax Dependent” means a member of an eligible family applying for or receiving Child Care Assistance who is included in family size, and who the tax claimant states an intention to claim as a dependent on a federal or state income tax return for the current calendar year, to be filed in the following calendar year.
  63. “Time Limit” means that each child in the eligible family may receive no more than 60 cumulative months of Child Care Assistance in a lifetime, unless the parent, caretaker relative, or legal guardian of the child needing care can prove they are making efforts to improve skills and move toward self-sufficiency, under A.R.S. § 46-803(K)(1).
  64. “Unit” means a part or full day measurement of Child Care Assistance authorized by the Department to meet the needs of an eligible family based on the participation of parents, caretaker relatives, or legal guardians of the children needing care in an eligible activity.
  65. “Waiting List” means the prioritization of applicants by the Department to manage resources within available funding by placing applicants determined eligible for Child Care Assistance on a list, until the Department determines that sufficient funds are available to fund Child Care Assistance for families on the list.
  66. “Work” means the performance of duties on a regular basis for wages or salary.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Editor’s Note:** *The following Section was adopted and repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor’s Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4902. Repealed

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section automatically repealed July 31, 1998 (Supp. 98-3).

**Editor’s Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor’s Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4903. Repealed

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section repealed by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Editor’s Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor’s Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4904. Access to Child Care Assistance

##### A. Application for Child Care Assistance.

1. Any person may apply for Child Care Assistance by filing, either in person or by mail, a Department-approved application form with any CCA office.

2. The application file date is the date any CCA office receives an identifiable application. An identifiable application contains, at a minimum, the following information:
    - a. The legible name and address of the person requesting assistance; and
    - b. The signature, under penalty of perjury, of the applicant or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
  3. In addition to the identifiable information described in subsection (A)(2), a completed application shall contain:
    - a. The names of all persons living with the applicant and the relationship of those persons to the applicant, and
    - b. All other eligibility information requested on the application form.
  - B. Request for Child Care Assistance.**
    1. Cash Assistance participants who need Child Care Assistance for employment activities are not required to complete an application.
    2. Child Care Assistance for Cash Assistance participants may begin effective the start date of the eligible activity but not earlier than the date that the participant requests Child Care Assistance from a local CCA office after the Department has verified eligibility criteria.
  - C. Referral for Child Care Assistance.**
    1. Jobs Participants. Cash Assistance participants in Jobs-approved work participation activities who request child care shall be referred by the Jobs Program for Child Care Assistance.
    2. Child Protective Services Families (CPS). CPS shall refer families that CPS deems eligible for Child Care Assistance on a case-by-case basis.
    3. CPS and DDD Foster Families - CPS or DDD shall determine eligibility for and refer children in the care, custody, and control of DES who need child care services as documented in a foster care case plan.
- Historical Note**
- Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).
- Editor's Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*
- R6-5-4905. Initial Eligibility Interview**
- A.** Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.
  - B.** The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
  - C.** The Department may conduct a telephone interview if the applicant has previously verified citizenship or legal residency status as prescribed in R6-5-4911(E).
  - D.** During the interview, a Department representative shall:
    1. Assist the applicant in completing the application form;
    2. Witness the signature of the applicant;
  3. Discuss information pertinent to the applicant's child care needs;
  4. Provide the applicant with written information explaining:
    - a. The terms, conditions, and obligations of the Child Care Assistance program;
    - b. Any additional verification information as prescribed in R6-5-4906 which the applicant must provide for the Department to conclude the eligibility evaluation;
    - c. The Department practice of exchanging eligibility and income information among Department programs;
    - d. The coverage and scope of the Child Care Assistance program;
    - e. The applicant's rights, including the right to appeal a negative action; and
    - f. The requirement to report all changes within two work days from the date the change becomes known;
  5. Review the penalties for perjury and fraud, as printed on the application;
  6. Explain to the applicant who is included in family size for the purpose of determining income eligibility, and whose availability is considered in determining the amount of Child Care Assistance authorized for each child needing care as prescribed in R6-5-4914(D);
  7. If the applicant is the parent of the children needing care, explain the tax claimant provision under R6-5-4914(D)(3);
  8. Provide the applicant with the tax claimant declaration form if there is a potential tax claimant in the household;
  9. Provide the following information to assist the family in continuing to move toward self-sufficiency:
    - a. Availability of the Earned Income Tax Credit (EITC). Provide the applicant with the current U.S. Department of Internal Revenue Service (IRS) EITC information if the applicant comes into the office for the initial interview;
    - b. Availability of child support services through the Division of Child Support Enforcement (DCSE) to assist with paternity establishment, establishment of a child support order, or enforcement of an existing child support order. Provide the applicant with written information regarding child support services if the applicant comes into the office for the initial interview; and
    - c. Availability of Department-sponsored or contracted employment services that may assist the applicant and spouse or other parent in finding a job, or pursuing a better job or career. Provide the applicant with written information regarding employment services if the applicant comes into the office for the initial interview;
  10. Explain to the applicant the 60-month per child time limit for Child Care Assistance:
    - a. Describe the child care programs to which the 60-month time limit applies;
    - b. Describe how child care utilization is measured per child to calculate the 60-month limit; and
    - c. Explain the criteria for extensions of the time limit based on continued efforts to improve job skills and move toward self-sufficiency;
  11. Discuss the six-child limit for Child Care Assistance;

- a. Explain that no more than six children in a family may receive Child Care Assistance at any point in time; and
- b. Explain the child care programs to which the six-child limit applies;
12. Discuss the waiting list for Child Care Assistance:
  - a. Describe the programs to which it applies;
  - b. Explain prioritization for assistance based upon income for families on the waiting list;
  - c. Indicate whether the waiting list is currently in effect; and
  - d. Explain that, based on funding availability, the Department may implement a waiting list at any point in time;
13. Review any verification information already provided;
14. Explain the applicant's duties to:
  - a. Notify the Department regarding initial provider selection or changes in provider in advance of using services or changing providers;
  - b. Pay DES required copayments to the child care provider as assigned by the Department; and
  - c. Pay any additional charges to the provider for the cost of care in excess of the amount paid by the Department; and
15. Review all ongoing reporting requirements, and explain that the applicant may incur overpayments for failure to make timely reports.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4906. Verification of Eligibility Information**

- A. The Department shall obtain independent verification or corroboration of information provided by the client when required by law, or when it is necessary to determine eligibility, fee level and copayment assignment, or service authorization amount.
- B. The Department may verify or corroborate information by any reasonable means including:
  1. Contacting third parties such as employers and educational institutions,
  2. Asking the client to provide written documentation such as pay stubs or school schedules, and
  3. Conducting a computer data match through other Department programs' computer systems.
- C. The client is responsible for providing all required verification. The Department shall offer to assist a client who has difficulty in obtaining the verification and requests help.
- D. A client shall provide the Department with all requested verification within 10 calendar days from the notice date of a written request for such information. When a client does not timely comply with a request for information, the Department shall deny the application as provided in R6-5-4908(B).

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4907. Withdrawal of an Application**

- A. An applicant may withdraw an application at any time prior to its disposition by providing the Department with a written request for withdrawal signed by the applicant.
- B. If an applicant makes an oral request to withdraw an application:
  1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department. The Department shall inform the applicant of the consequences of not returning the withdrawal form within 10 days of the notice date.
  2. If the applicant fails to return the completed withdrawal form, the Department shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 days of the date the Department provides the applicant a withdrawal form.
- C. A withdrawal is effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- D. An application that has been withdrawn shall not be reinstated; an applicant who has withdrawn an application shall reapply anew.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4908. Child Care Assistance Approvals and Denials**

- A. The Department shall complete the eligibility determination within 30 calendar days of the application file date or referral receipt date, unless:
  1. The application or referral is withdrawn,
  2. The application or referral is rendered moot because the applicant has died or cannot be located, or
  3. There is a delay resulting from a Department request for additional verification information as provided in R6-5-4906(D).
- B. The Department shall deny Child Care Assistance when the applicant fails to:
  1. Complete the application and an eligibility interview, as described in R6-5-4905;
  2. Submit all required verification information within 10 days of the notice date of a written request for verifica-

tion, or within 30 days of the application file date whichever is later; or

3. Cooperate during the eligibility determination process as required by R6-5-4911(A).

- C. When an applicant satisfies all eligibility criteria, the Department shall determine the service authorization amount, the fee level and copayment amount (if applicable), approve Child Care Assistance, and send the applicant an approval notice. The approval notice shall include the amount of assistance, fee level and copayment information, and an explanation of the applicant's appeal rights.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4909. 12-month Review

- A. The Department shall complete a review of all eligibility factors for each client at least once every 12 months, beginning with the 12th month following the first month of Child Care Assistance eligibility.
- B. The Department may elect to review eligibility factors more frequently than every 12 months.
- C. At least 30 days prior to the 12-month review date, the Department shall mail the client a notice advising of the need for a review, and the requirement to submit a completed review application and verification of income and other eligibility factors for the most recent calendar month.
- D. In response to such notice, the client shall mail or deliver to the Department a completed review application and verification by the date on the notice.
- E. The Department shall verify the client's income and any eligibility factors that have changed or are subject to change.
- F. The Department shall terminate Child Care Assistance effective the review date and deny the review application if the client:
  1. Fails to submit the review application by the review date, or
  2. Fails to submit requested verification by the review date as required by the Department for a redetermination of eligibility.
- G. If the client submits the review application and required verification within 30 days after the review date, the Department shall not require the client to appear for an intake interview and shall approve Child Care Assistance effective the date that the application and verification were received if other eligibility criteria are met.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of*

*proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4910. Reinstatement of Assistance

- A. If the Department has terminated Child Care Assistance, the Department shall not reinstate assistance unless the client files a new application.
- B. Notwithstanding subsection (A), the Department shall reinstate assistance within 10 calendar days when:
  1. Termination was due to Department error; the Department shall reinstate assistance effective the date following the date of termination;
  2. The Department receives a court order or administrative hearing decision mandating reinstatement; the Department shall reinstate assistance effective the date prescribed by the court order or hearing decision; or
  3. The recipient files a request for a fair hearing within 10 days of the notice date of the termination notice and requests that assistance be continued pending the outcome of an appeal; the Department shall reinstate assistance effective the date following the date of termination.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4911. General Eligibility Criteria

- A. Applicant and Recipient Responsibility.
  1. An applicant for or recipient of Child Care Assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The client shall:
    - a. Give the Department complete and truthful information;
    - b. Within two business days from the date the change becomes known, inform the Department of all changes in:
      - i. Income;
      - ii. Eligible activities as described in R6-5-4912;
      - iii. Work or school schedules;
      - iv. Persons moving in or out of the household;
      - v. Tax claimants moving in or out of the household;
      - vi. Other circumstances affecting eligibility or the amount of assistance authorized; and
    - c. Comply with all the Department's procedural requirements.
  2. The Department may deny an application for or reduce or terminate assistance, if the client fails or refuses to cooperate with the Department to determine eligibility.
- B. Eligible Applicants.
  1. In order to be considered an eligible applicant for Child Care Assistance, a client shall reside with the child needing care and shall be:
    - a. The parent of the child for whom assistance is being requested; or

- b. The caretaker relative related by blood, adoption, or marriage to the child for whom assistance is requested, including a brother, sister, aunt, uncle, first cousin, grandmother, grandfather, and persons of preceding generations as denoted by “grand,” “great,” or “great-great.”
    - c. A court-appointed legal guardian for the child for whom assistance is requested, or a person who can provide documentation from the court that the process of legal guardianship has been initiated.
  - 2. When more than one applicant resides in the home, or the child resides with two different caretakers intermittently, the Department shall determine the eligible applicant for Child Care Assistance as follows:
    - a. If both the parent and a caretaker relative are in the home, the parent is the eligible applicant;
    - b. If both a legal guardian and the parent are in the home, the legal guardian is the eligible applicant;
    - c. If a caretaker relative whose legal guardianship has been terminated and the parent are both in the home, the parent is the eligible applicant;
    - d. When the child resides with a caretaker relative or legal guardian who is acting as caretaker at least 51 percent of the time, and the parent either maintains a separate residence and visits the child intermittently, or resides outside of the child’s home for an indefinite period of time, the caretaker relative or legal guardian of the child is the eligible applicant for the child.
      - i. An eligible applicant cannot be the noncertified relative provider or certified provider of the child for whom he or she is applying for assistance.
      - ii. The Department shall not consider the tax claimant status of the caretaker relative or legal guardian under R6-5-4914(D) with respect to any member of the eligible family.
    - e. When the child resides with two or more caretaker relatives, the caretaker relative who will be claiming the child as a dependent for income tax purposes is the eligible applicant for Child Care Assistance.
  - 3. Acceptable verification of guardianship shall include the following court documents:
    - a. Petition for Temporary Appointment of Guardian (date stamped as received by the court);
    - b. Petition for Permanent Appointment of Guardian (date stamped as received by the court);
    - c. Order of Appointment of a Temporary Guardian;
    - d. Order of Appointment of a Permanent Guardian;
    - e. Letters and Acceptance of Permanent Guardianship.
  - 4. If the client has not been appointed as a guardian when the Department authorizes Child Care Assistance, the client shall to continue the legal process for appointment in order to retain eligibility for Child Care Assistance.
  - 5. The client shall verify relationship or guardianship status as requested by the Department.
- C. Arizona Residency.** The client and the child for whom assistance is requested shall be Arizona residents and shall be physically present within Arizona.
- D. Age of the Child.** An eligible child is birth through 12 years of age only; a child aged 13 or older is ineligible for Child Care Assistance.
- E. Citizenship and Legal Residency Requirements.**
- 1. The client shall be a United States citizen or shall be a legal resident of the United States.
  - 2. The client shall verify citizenship or legal residency status as requested by the Department by providing a birth certificate, naturalization documentation, or alien or immigration registration documentation from the U.S. Immigration and Naturalization Service (INS).
- F. Eligible Activity or Need.**
- 1. The client, and any other parent or responsible person in the household shall be engaged in an eligible activity, or have an eligible need for Child Care Assistance as prescribed in R6-5-4912 that causes each client, parent, or responsible person to be unavailable to provide care to the child for whom assistance is requested.
  - 2. The Department does not require a tax claimant to be engaged in an eligible activity, unless the tax claimant is the other parent of a child receiving Child Care Assistance.
- G. Availability of the Client, Parent, and Responsible Person.**
- 1. The Department shall consider the availability of the client, and any other parent or responsible person in the household in determining eligibility and the amount of Child Care Assistance authorized for each individual child needing care.
  - 2. The client, parent, and any other responsible person in the household shall be unavailable to provide care to the child for whom assistance is being requested for a portion of a 24-hour day due to an eligible activity or need.
  - 3. In a family with more than one parent or responsible person, the Department shall authorize Child Care Assistance for the period of time that neither the parent nor the responsible person is available due to an eligible activity or need.
  - 4. The Department shall not consider the availability of a tax claimant in determining eligibility or amount of Child Care Assistance authorized for the client’s children, unless the tax claimant is the other parent of a child receiving Child Care Assistance.
- H. Provider Selection and Arrangements.**
- 1. The Department shall not authorize Child Care Assistance until the applicant has selected a child care provider. An allowable child care provider for DES Child Care Assistance:
    - a. Shall be one of the following:
      - i. A DHS-licensed child care center;
      - ii. A DHS-certified group home;
      - iii. A DES-certified family child care home;
      - iv. A DES-certified in home care provider;
      - v. A DES-noncertified relative provider;
      - vi. A regulated provider meeting requirements established by military installations or federally recognized Indian Tribes.
    - b. Shall have a registration agreement with the Department.
  - 2. The Department shall not authorize Child Care Assistance with a noncertified relative provider when Child Care Assistance is requested for a CPS referred family, or a CPS or DDD foster family;
  - 3. The Department shall not authorize Child Care Assistance with a noncertified relative or certified provider when:
    - a. The relative or certified provider is the natural, step, or adoptive parent of the child for whom assistance is requested;
    - b. Child Care Assistance is requested by a Cash Assistance participant and the relative or certified provider is included in the same Cash Assistance grant as the child care applicant; or

- c. The relative or certified provider is included in family size as prescribed in R6-5-4914(D), is the applicant for Child Care Assistance, or is the applicant's spouse.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Editor's Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4912. Eligible Activity or Need

A. Eligible activities and needs for Child Care Assistance are described in this subsection:

1. Employment. Full or part-time employment for monetary compensation;
2. Self Employment. Full or part time self employment for monetary compensation.
3. Education and Training Activities with Minimum Work Requirement. A client who is employed shall be eligible to receive Child Care Assistance for education and training activities as prescribed in subsections (A)(3)(a), (b), and (c).
  - a. Post-secondary education in a college or trade school.
    - i. The client is employed an average of at least 20 hours per week, per calendar month.
    - ii. A self-employed client meets the 20-hour work requirement if the client's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
    - iii. The education or training activity is related to the client's employment goal.
    - iv. The client's educational level is freshman or sophomore as defined by the educational institution, or the educational activities are in pursuit of an Associate Degree, or the client is in training at a vocational or trade school.
    - v. The client shall maintain satisfactory progress in the educational activity and remain in good standing, as defined by the educational institution.
    - vi. The client has not received more than the lifetime limit of 24 months of Child Care Assistance for education and training activities. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 24-month limit.
    - vii. Countable months toward the 24-month limit are those calendar months in which the Department authorized additional child care services for education and training needs; the Department shall not calculate the 24-month limit based on monthly usage.
    - viii. The client assumes full responsibility for employment goals and educational choices

made; the Department is under no obligation to provide Child Care Assistance until educational or employment goals are attained.

- ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
- x. Correspondence courses, home study courses, and study time are not eligible educational activities for Child Care Assistance.
- b. High School, G.E.D., E.S.O.L., and Remedial Educational Activities for Adults age 20 and Older.
  - i. The client is employed an average of at least 20 hours per week, per month.
  - ii. A self-employed client meets the 20-hour work requirement if the person's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
  - iii. The educational or training activity is related to the client's employment goal.
  - iv. The client shall maintain satisfactory progress in the educational activity and remain in good standing, as defined by the educational institution.
  - v. The client has not received more than the lifetime limit of 12 months of Child Care Assistance for education and training activities described in this Section. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 12-month limit.
  - vi. Countable months toward the 12-month limit are those calendar months in which the Department authorized additional child care services for education and training needs. The Department shall not calculate the 12-month limit based on monthly usage.
  - vii. The client assumes full responsibility for employment goals and educational choices made; the Department is under no obligation to provide Child Care Assistance until educational and employment goals are attained.
  - viii. Allowable educational activities are: attendance at high school, G.E.D. or E.S.O.L. classes, or remedial educational activities as determined allowable by the Department.
  - ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
  - x. Correspondence courses, home study courses, and study time are not allowable educational activities for DES Child Care Assistance.
- c. Cash Assistance participants who are sanctioned due to Jobs noncompliance are ineligible for Child Care Assistance for education and training activities in any month when a Jobs sanction is applied to the Cash Assistance case, unless the education and training activities are Jobs approved.
4. Teen Parents in Education and Training Activities. Teen parents are eligible for Child Care Assistance for education and training activities according to the following criteria:
  - a. The teen parent is under age 20.

- b. The teen parent is attending high school, G.E.D., or E.S.O.L. classes, or remedial educational activities in pursuit of a high school diploma.
  - c. Child Care Assistance for teen parents for the educational activities described in this Section is not time-limited. The teen parent shall continue to receive assistance for the educational activity if eligibility criteria are met and until the teen parent:
    - i. Receives a diploma or certificate; or
    - ii. Attains the age of 20 years, whichever occurs first.
  - d. If the teen parent attends post-secondary educational activities, the eligibility criteria outlined under "Post- Secondary Education" in subsection (A)(3)(a) shall apply.
  - e. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
  - f. Correspondence courses, home study courses, and study time are not allowable educational activities for Child Care Assistance.
  - g. Cash Assistance participants who have been sanctioned due to Jobs noncompliance are ineligible for Child Care Assistance for education and training activities in any month that a Jobs noncompliance sanction is applied to the Cash Assistance case, unless the education and training activities are Jobs approved.
5. Participation in Jobs Approved Activities. Individuals participating in the Jobs Program and who receive Cash Assistance shall be eligible for Child Care Assistance if the following criteria are met.
- a. The individual is referred by a Jobs Program Specialist to CCA for Child Care Assistance.
  - b. The individual is required to contact a local DES Child Care Office to notify CCA of the selection of a provider, and to cooperate with CCA to arrange child care services.
  - c. The Child Care service authorization shall be based on the days and hours of the approved Jobs activity as specified by the Jobs Program Specialist in the Jobs referral.
  - d. Jobs participants shall receive Child Care Assistance for Jobs approved educational and training activities only. Educational and training activities that are not Jobs approved are not eligible activities for Child Care Assistance for Jobs participants.
6. Unable or Unavailable to Provide Care. Clients who are unable or unavailable to care for their own children for a portion of a 24-hour day are eligible for Child Care Assistance according to the following criteria.
- a. Clients who are unable to care for their own children due to a physical, mental, or emotional disability are eligible for Child Care Assistance when the diagnosis, inability to care for the children, and anticipated recovery date (or the date of the next medical evaluation) have been verified by a licensed physician, certified psychologist, or certified behavioral health specialist.
  - b. The Department shall authorize Child Care Assistance to cover:
    - i. The amount of time the client is unable to care for the child; and
    - ii. The amount of time needed for ongoing treatment for the specified condition as verified by the physician, certified psychologist, or certified behavioral health specialist.
- c. Child Care Assistance shall not cover intermittent and routine appointments that are not part of an ongoing treatment plan.
  - d. Clients participating in a drug rehabilitation program are eligible for Child Care Assistance to participate in activities as specified by the drug rehabilitation program.
  - e. Clients participating in a court-ordered community service program are eligible for Child Care Assistance to support required community service participation as specified by the court.
  - f. Clients who are residents of a homeless or domestic violence shelter are eligible for Child Care Assistance based on shelter residency, and on verification provided by an authorized representative at the shelter. Child Care Assistance shall cover:
    - i. The days and hours that the client is unavailable to provide care to their own child due to participation in shelter-directed activities as verified by an authorized representative of the shelter; and
    - ii. The days and hours that the client is unable to provide care to the client's own child due to a physical, mental, or emotional disability as verified by a licensed physician, certified psychologist, or a certified behavioral health specialist.
- B. Gaps In Employment.** Clients receiving Child Care Assistance are eligible for continued assistance during gaps in employment.
- 1. The Department shall continue Child Care Assistance for each parent, legal guardian, or relative caretaker in the eligible family during no more than two gaps in employment of 30 days in each 12-month period.
  - 2. The Department shall authorize Child Care Assistance during a 30-day gap in employment beginning the day after the last day worked, after the client provides verification of his or her job termination date.
  - 3. Gaps in employment may be consecutive (if requested).
    - a. The Department shall continue Child Care Assistance for an additional 30 days upon request of the client, if the client has not already used Child Care Assistance during two gaps in employment in the most recent 12-month period immediately preceding the job termination date.
    - b. The second gap in employment shall begin the day after the last day of the first gap in employment.
  - 4. The Department shall continue to authorize the same number of units of Child Care Assistance as previously authorized for the employment activity.
  - 5. The Department shall decrease the client's fee level and copayment under Appendix A, based on the loss of earned income effective the date that terminated employment has been verified, or the day after the last day worked, whichever is the later date.
  - 6. The Department shall end Child Care Assistance during a gap in employment on the 30th day after the client's last day worked, or on the 60th day after the client's last day worked if two consecutive gaps were authorized, unless the client can verify participation in a new eligible activity.
  - 7. When a client fails to report job loss timely as described under R6-5-4911(A)(1), and continues to use Child Care Assistance, the Department shall automatically reduce the overpayment period by subtracting any unused gaps



in employment in lieu of the corresponding months of overpayment.

8. Child care utilized during a gap in employment shall count toward the 60 month per child time limit for Child Care Assistance under R6-5-4919.
9. CPS Referred Families and CPS and DDD Foster Families.
  - a. Child Care Assistance shall be provided to families requiring assistance as documented in a CPS case plan, or to children who are in the care, custody, and control of the Department, and who need Child Care Assistance as documented in a foster care case plan.
  - b. Eligibility for Child Care Assistance under this provision shall be determined by CPS and DDD on a case by case basis.
- C. Verification of Eligible Activity or Need. The client shall verify eligible activities and needs as requested by the Department. Acceptable verification shall include:
  1. Pay stubs for the most recent 30-day period;
  2. Employer's statement verifying start date, hourly rate of pay, work schedule, and frequency of pay including:
    - a. The date of receipt of the first full paycheck if the client is newly employed; and
    - b. The last day worked, if the client's employment has terminated.
  3. Quarterly or annual tax statement for the most recent calendar quarter or year to verify self-employment activities;
  4. Self-employment log to document self-employment activities and income accompanied by receipts for gross sales and business expenses for the most recent calendar month or quarter;
  5. Written verification from an educational institution to verify days and hours of attendance, start and end dates of the activity, educational level, and satisfactory progress;
  6. Written verification from a licensed physician, certified psychologist, or certified behavioral health specialist indicating the diagnosis, inability to care for the child, days and hours that child care is needed, and the anticipated recovery date;
  7. Written verification from a homeless or domestic violence shelter indicating the days, hours, and duration that child care is needed as prescribed in subsection (A)(6)(f).

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4913. Applicants and Recipients as Child Care Providers

- A. The client for Child Care Assistance may also be the child care provider for any child for whom assistance is requested when:
  1. The client works for but is not the DES contracted party for the provision of Child Care Assistance;
  2. The client receives monetary compensation for work performed as a child care provider;

3. The client cares for other unrelated children, for whom client does not receive Child Care Assistance, as well as for the child for whom the client has applied for Child Care Assistance; and
4. The client is unavailable to provide care to the child for whom assistance is requested. When the client is also the child care provider, this is defined as:
  - a. There is no "not for compensation" slot available for the child; and
  - b. Caring for the child as well as for the other children for whom the child care provider receives compensation, would exceed the ratio per state certification or licensing standards pursuant to A.R.S. § 36-897.01 and 6 A.A.C. 5, Article 52.
- B. If there is no "not for compensation" slot available for the child, and other eligibility criteria described in this Article are met, the client for Child Care Assistance may also be the child care provider for the child for whom assistance is requested.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4914. Income Eligibility Criteria

- A. Child Care Assistance Without Regard to Income. The Department shall not determine income eligibility for Child Care Assistance for the following:
  1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA as prescribed in R6-5-4904(B).
  2. Cash Assistance participants who need Child Care Assistance to maintain employment.
  3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA as prescribed in R6-5-4904(B).
- B. Child Care Assistance With Regard to Income. The Department shall determine income eligibility for Child Care Assistance for the following:
  1. Former Cash Assistance participants who need Child Care Assistance to maintain employment as prescribed in R6-5-4916(A).
  2. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment.
  3. Teen parents who need Child Care Assistance for educational activities as prescribed in R6-5-4912(A)(4).
  4. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter as prescribed in R6-5-4912(A)(6).
- C. Income Maximum for Child Care Assistance. The Department shall determine income eligibility by calculating the gross monthly income of all family members included in family size unless otherwise excluded as prescribed in subsections (D), (E), (F), and (H).

1. If the gross monthly income for the family is equal to or less than 165% FPL, the family meets the income eligibility requirements for Child Care Assistance.
  2. If the gross monthly income for the family exceeds 165% FPL, the family does not meet the income eligibility requirements for Child Care Assistance.
- D. Family Size Determination.** The Department shall include the countable income of every person included in family size for the purpose of determining income eligibility as prescribed in this subsection.
1. Family size shall consist of:
    - a. The applicant for Child Care Assistance;
    - b. The applicant's natural, adoptive, and step children;
    - c. Any other parent or responsible person living in the household who is legally and financially responsible for either the applicant, or for the children needing care;
    - d. The children of the other parent or responsible person residing in the same household; and
    - e. The tax claimant under subsection R6-5-4914(D)(3).
  2. When a parent applies for Child Care Assistance for a natural, adoptive, or step child, the Department shall:
    - a. If the applicant and other adult in the household are married, or have children in common who need child care, make one family size determination for the family.
    - b. Count the income of both parents.
  3. When a tax claimant resides in the household with a parent who is applying for or receiving Child Care Assistance, the Department shall include the tax claimant in family size if:
    - a. The tax claimant states an intention to claim any of the following members of the eligible family residing in the same household as a dependent on the tax claimant's federal or state income tax return for the current calendar year:
      - i. The parent who is the applicant;
      - ii. The parent's natural, adoptive, or step children less than 18 years of age;
      - iii. The parent's spouse;
      - iv. The other parent of the children for whom assistance is requested, or who are receiving Child Care Assistance; or
      - v. The dependent children of the other parent residing in the household, and who are included in family size.
    - b. The tax claimant signs a declaration stating the intention to claim specific members of the eligible family as tax dependents for the current calendar year.
  4. The Department shall include the tax claimant's dependent children under age 18 and spouse residing in the same household in family size.
  5. When the applicant and his or her spouse are legally married and do not reside in the same household, but have the intention of remaining a family, the Department shall include the spouse in family size if the absent spouse is engaged in an eligible activity under R6-5-4912.
  6. When a caretaker relative applies for Child Care Assistance for another related child only:
    - a. Family size shall consist of the other related child or children only; and
    - b. The Department shall exclude both the caretaker relative and his or her spouse from the family size determination.
  7. When the applicant applies for Child Care Assistance for natural, adoptive, or step children, and also for another related child, the Department shall make one family size determination for the family:
    - a. Family size shall consist of the applicant, the applicant's child, any other related eligible children who need care, and any other parent or responsible person in the household.
    - b. Any income received by or for an "other related" child less than 13 years of age shall be counted.
    - c. If there is another relative in the household who states an intention to claim an other related child as a dependent for income tax purposes, this tax claimant must be the applicant for the child. The Department shall determine family size separately for this child under R6-5-4914(D)(6).
  8. When an unwed minor parent applies for Child Care Assistance for his or her own child, and resides with his or her parents:
    - a. The Department shall include the following in family size, unless the minor parent or the minor parent's children are tax dependents as described under subsection (d) below:
      - i. The minor parent; and
      - ii. The minor parent's child.
    - b. The Department shall not include the parents and siblings of the unwed minor parent in family size.
    - c. The Department shall deem a portion of the monthly gross countable income received by the parent of the unwed minor parent to be available to meet the needs of the unwed minor parent and his or her children as described in this subsection, unless the parent of the minor parent is a tax claimant, under subsection (d) below.
      - i. The Department shall calculate the monthly gross countable income of the parents of the unwed minor parent;
      - ii. The Department shall subtract the amount of monthly gross countable income that equates to 165% FPL as specified in Appendix A, for the number of parents and siblings of the unwed minor parent residing in the same household only; and
      - iii. The Department shall count the remaining monthly gross countable income received by the parents of the unwed minor parent as available to meet the needs of the unwed minor parent and his or her children in the income eligibility determination.
    - d. If a parent of the minor parent is a tax claimant who intends to claim the minor parent or the minor parent's child as a tax dependent, the Department shall determine family size as follows:
      - i. The Department shall include the tax claimant, the tax claimant's spouse, and the tax claimant's dependent children residing in the same household in family size with the minor parent, and his or her child; and
      - ii. The Department shall count all countable income received by the tax claimant and the tax claimant's spouse in the income eligibility determination.
  9. When a married, separated, widowed, or divorced minor parent applies for Child Care Assistance for his or her own children:

- a. The Department shall include the minor parent and his or her own dependent children in family size;
  - b. The Department shall include monthly gross countable income received by the minor parent and the other parent or responsible person residing in the home in the income eligibility determination;
  - c. The Department shall not consider income received by the parent of the minor parent in the income eligibility determination, unless the parent of the minor parent is a tax claimant, under subsection (8)(d); and
  - d. The Department shall not include parents and siblings of the minor parent in family size, unless the parent of the minor parent is a tax claimant, under subsection (8)(d).
10. If a tax claimant included in family size is also a parent who needs Child Care Assistance for his or her own child, the tax claimant shall submit a separate application.
- a. The Department shall make a separate eligibility and family size determination for the tax claimant's dependent children less than age 18.
  - b. The Department shall include the parent, spouse or other parent or responsible person, and their dependent children in family size.
11. When a guardian applies for Child Care Assistance for a child in guardianship only, the Department shall:
- a. Make one family-size determination for the child in guardianship.
  - b. Include all children in guardianship in family size.
  - c. Exclude the guardian and the guardian's spouse from family size.
  - d. Count the income received by or for the children in guardianship.
  - e. If the parent of the child needing care is also in the household, the Department shall not include the parent in family size; and shall not count his or her income.
12. When the applicant applies for Child Care Assistance for natural, step, or adoptive children in addition to the children in guardianship, the Department shall:
- a. Make one family-size determination.
  - b. Include in family size the applicant, the applicant's children, the children in guardianship less than 13 years of age who need care, and any other parent or responsible person in the household.
  - c. Count the applicant's and other parent's or responsible person's income.
  - d. Count the income received by or for the children in guardianship less than 13 years of age.
13. When a foster parent applies for Child Care Assistance for his or her own children:
- a. The Department shall include the applicant, other parent or responsible person, and their children in family size; and
  - b. The Department shall not include the foster child in family size unless the foster child is a relative.
- E. Verification of Tax Claimant Status**
1. The Department shall verify tax claimant status as described in R6-5-4914(D) by requiring:
    - a. The client to submit a signed and dated declaration stating that no relative 18 years of age or older residing in the same household intends to claim any member of the eligible family as a tax dependent for the current calendar year; or,
    - b. The client and the relative 18 years of age or older residing in the same household who intends to claim a member of the eligible family as a tax dependent for the current calendar year to:
      - i. Submit a signed and dated declaration stating that fact; and,
      - ii. State the name of the family member whom the relative intends to claim as a tax dependent.
  2. The Department shall include the tax claimant, his or her spouse, and dependent children in family size upon receipt of the signed declaration.
  3. If the tax claimant no longer intends to claim a member of the eligible family as a tax dependent, the client must sign and date a new declaration.
    - a. The new declaration shall specify that the tax claimant no longer intends to claim a member of the eligible family as a tax dependent.
    - b. The Department shall remove the tax claimant, tax claimant's spouse, and his or her dependent children from family size after receipt of the signed declaration.
- F. Countable Income.** The Department shall count the gross monthly income of a family as prescribed in subsection (D); countable income shall include:
1. Gross earnings received for work including wages, salary, armed forces pay (with the exception of specifically designated allotments for food and shelter costs), commissions, tips, overtime, piece-rate payments, and cash bonuses earned, before any deductions.
  2. Net income from non-farm self employment including gross receipts minus business expenses. Gross receipts include the value of all goods sold and services rendered. Business expenses include costs of goods and services purchased or produced, rent, heat, light, power, depreciation charges, wages, and salaries paid, business taxes, and other expenses incurred in operating the business. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
  3. Net income from farm self employment which includes gross receipts minus operating expenses. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include costs of feed, fertilizer, seed, and other farming supplies, wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes, and other expenses incurred in operation of the farm. The value of fuel, food, or other farm products used for family living is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
  4. Social Security payments prior to deductions for medical insurance including Social Security benefits and "survivors" benefits, and permanent disability insurance payments made by the Social Security Administration.
  5. Railroad retirement insurance income.
  6. Dividends including interest on savings, stocks and bonds, income and receipts from estates or trusts, net rental income or royalties, receipts from boarders or lodgers (net income received from furnishing room and board shall be 1/3 of the total amount charged). Interest on Series H. United States Government Savings bonds.

7. Mortgage payments received shall be prorated on a monthly basis.
  8. Public assistance payments including payments from the following programs: Cash Assistance, Supplemental Security Income (SSI), State Supplementary Payments (SSP), General Assistance (GA), Bureau of Indian Affairs General Assistance (BIAGA), and Tuberculosis Control (TC).
  9. Pensions and annuities including pensions or retirement benefits paid to a retired person or their survivors by a former employer or by a union, or distributions or withdrawals from an individual retirement account.
  10. Unemployment Insurance payments including compensation received from government unemployment insurance agencies or private companies during periods of unemployment, and any strike benefits received from union funds.
  11. Workers' compensation payments.
  12. Money received from the Domestic Volunteer Act when the adjusted hourly payment is equal to or greater than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP).
  13. Alimony or spousal maintenance which shall be counted the month received.
  14. Child support which shall be counted the month received.
  15. Veterans' pensions including benefits and disability payments paid periodically by the Veterans Administration to members of the Armed Forces or to a survivor of deceased veterans.
  16. Cash gifts received on a monthly basis from relatives, other individuals, and private organizations, as a direct payment in the form of money.
  17. Money received through the lottery, sweepstakes, contests, or through gambling ventures whether received on an annuity or lump sum basis.
  18. Any other source of income not specifically excluded in subsection (F).
- G. Excluded Income.** The Department shall exclude the items listed in this subsection when determining a family's gross monthly income.
1. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;
  2. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act;
  3. Money or capital gains received as a lump sum, from the sale of personal or real property, such as stocks, bonds, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self employment);
  4. Withdrawals of bank deposits;
  5. Loans; money borrowed;
  6. Tax refunds;
  7. Any monies received through the federal Earned Income Credit (EIC);
  8. One time lump sum awards or benefits, including:
    - a. Inherited funds;
    - b. Insurance awards;
    - c. Damages recovered in a civil suit;
    - d. Monies contributed by a client to a retirement fund that are later withdrawn prior to actual retirement; and
    - e. Retroactive public assistance payments;
  9. The value of U.S. Department of Agriculture (USDA) Food Stamps;
  10. The value of USDA-donated food;
  11. The value of any supplemental food assistance received under the Child Nutrition Act of 1966 and special food service program for children under the National School Lunch Act, the Women, Infant, and Children Program (WIC), Child and Adult Care Food Program (C.A.C.F.P.), and the School Lunch Program;
  12. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (for example, Navajo/Hopi Relocation Act);
  13. Earnings of a child who is under the age of 18 and attending high school or other training program, and who is not a minor parent who needs Child Care Assistance for his or her own child;
  14. Home produce used for household consumption;
  15. Government-sponsored training program expenses (TRE payments) such as: training-related expenses paid to JOBS participants and Job Training Partnership Act (JTPA) training expenses paid directly to the client;
  16. The value of goods or services received in exchange for work;
  17. Interest on Series E, United States Government Savings bonds;
  18. Foster care maintenance payments received for care of foster children;
  19. Adoption subsidy payments received for the care of adopted children;
  20. Educational loans, grants, awards, and scholarships regardless of their source, including Pell Grants, Supplemental Educational Opportunity Grants (SEOG), Bureau of Indian Affairs (BIA) Student Assistance Grants, college work-study income, Carl D. Perkins Vocational and Applied Technology Education Act income, and any other state or local, public, or private educational loans, grants, awards, and scholarships;
  21. Money received from the Domestic Volunteer Act when the adjusted hourly payment is less than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP);
  22. Housing and Urban Development (HUD) benefits, cash allowances and credits against rent;
  23. Vendor payments including payments made directly to a third party by friends, relatives, charities, or agencies to pay bills for the client;
  24. Vocational Rehabilitation training-related expenses (TRE) which are reimbursements for expenses paid. Sub-sistence and maintenance allowances, and incentive payments not designated as wages;
  25. Disaster relief funds and emergency assistance provided under the Federal Disaster Relief Act, and comparable assistance provided by a state or local government, or disaster assistance organization;
  26. Energy assistance including all state or federal benefits designated as "energy assistance" or assistance from a municipal utility or non-profit agency;
  27. Agent Orange payments;
  28. Any other income specifically excluded by applicable state or federal law.
- H. Income Deduction.** Child support that is paid for dependents who do not reside in the same household with the eligible family shall be deducted from the monthly gross countable income

prior to income calculation and fee level and copayment assignment as prescribed in subsection (I) and R6-5-4915.

**I. Income Calculation.** The Department shall calculate monthly income as prescribed in this subsection.

1. The Department shall include all income of all family members included in the family-size determination, other than income excluded as prescribed in R6-5-4914(F) in the determination of income eligibility.
2. The Department shall calculate a monthly figure for each source of income separately with the appropriate method used for calculation.
3. After calculating monthly income for each source of income, the Department shall add the monthly amounts from each source to obtain the total monthly income.
4. The Department shall convert income received less often than monthly to a monthly figure as provided in this subsection.
  - a. The Department shall prorate the total income over the number of months that the income is intended to cover.
  - b. If the income is received on or after the date of application, a monthly share of income shall be considered beginning with its earliest possible effective date and for a number of months equal to the number of months which the income covers.
  - c. If the family receives the income prior to the date of application, the number of months that the income is intended to cover shall be equal to the number of months of coverage remaining.
5. The Department shall anticipate income for a current or future month based on the averaged income received in the most recent 30-day period, unless the Department receives new information that indicates that the income has changed, as verified under subsection (J).
  - a. If the income received by the household has increased due to receipt of a new source of income, an increased work schedule, or a raise in salary or wages, the Department shall calculate the gross monthly countable income for the household based on the amount of income anticipated to be received on a monthly basis. The Department shall begin counting the new or increased income as described under subsection (6).
  - b. If the income received by the household has decreased due to loss of a source of income, a decreased work schedule, or a reduction in salary or wages, the Department shall cease counting the income effective the date that the client provides verification of the loss or reduction in income.
6. When a family receives a new or increased income source that will be received monthly, weekly, bi-weekly, or semi-monthly:
  - a. The income shall not be considered available to the family until the date that the first full payment is received.
  - b. The Department shall not assess a new fee level or ineligibility to the client until the monies are available.
  - c. Once the client has already received the payment that includes the new or increased income source, and a higher fee level or ineligibility results:
    - i. The Department shall increase the fee level or terminate assistance no earlier than 10 days after the first full paycheck has been received; and

- ii. The Department shall send a 10-day negative action notice prior to increasing the fee level or terminating assistance.

**7. The Department shall convert income received more often than monthly, for a period covering less than a month, to a monthly amount by one of the methods listed below.**

- a. If the income amount does not vary and is received monthly, weekly, bi-weekly, or semi-monthly, the conversion to a monthly amount will be obtained by multiplying the pay period amount by:
  - i. 1, if monthly;
  - ii. 4.3, if weekly;
  - iii. 2.15, if bi-weekly; or
  - iv. 2, if semi-monthly.
- b. This amount shall be applied as income on an ongoing monthly basis until there is a change in the income.
- c. If the monthly income received varies in amount and frequency, and exact monthly figures are unavailable, the Department shall use an average monthly figure.

**8. When the Department calculates the gross monthly income for the family, the whole dollar amount only shall be used to determine income eligibility, and fee level and copayment assignment; any amount that is a fraction of a whole dollar shall be rounded down to the next whole dollar.**

**J. Verification of Income.** The client shall verify income by providing written documentation of income as requested by the Department such as:

1. Pay stubs for the most recent calendar month, or for any month of potential overpayment;
2. Employer's statement verifying work schedule, hourly rate of pay, and frequency of pay;
3. Benefit award statements for the most recent benefit period;
4. Statements of account to verify interest income;
5. Quarterly or annual tax returns for the most recent quarter or year for self-employment income;
6. Self-employment log accompanied by gross sales receipts and business expense receipts for the most recent calendar month or quarter; and
7. Other written documentation from the source of the income indicating the amount of income received, source of income, frequency received, and naming the payee.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Editor's Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4915. Fee Level and Copayment Assignment**

- A.** The Department shall assign a fee level to the family based on family size and monthly gross countable income, as specified in Appendix A.

- B. The Department shall assign individual minimum required copayment amounts for each child in the family based on the fee level assignment, and the number of children needing care, as specified in Appendix A.
- C. The Department shall not assign a fee level or minimum required copayment to Jobs participants, Cash Assistance participants who need Child Care Assistance for employment, or families determined eligible and referred by CPS or DDD.
- D. When a client fails to pay the DES-required copayment, or fails to make satisfactory arrangements for payment of the DES-required copayment with a child care provider, the client is ineligible for Child Care Assistance.
- E. When the Department has determined that an client is ineligible for Child Care Assistance due to nonpayment of the copayment, the client is ineligible for any Child Care Assistance program that requires a copayment until past-due copayments have been paid, or until satisfactory arrangement have been made with the provider for payment.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4916. Special Eligibility Criteria

##### A. Transitional Child Care

- 1. Former Cash Assistance participants who are attempting to achieve independence from the Cash Assistance program, who need Child Care Assistance for employment, and who are otherwise eligible shall receive up to 24 months of Transitional Child Care Assistance.
- 2. The former Cash Assistance participant shall have received Cash Assistance in Arizona in at least one month and shall apply for Child Care Assistance within six months after the Cash Assistance case closure date.
- 3. The former Cash Assistance participant and any other parent or responsible person in the household shall need Child Care Assistance to maintain employment.
- 4. The most recent Cash Assistance case closure shall not have been due to a sanction for Jobs or Child Support noncompliance, and the Cash Assistance participant shall not have been sanctioned due to intentional program violation (IPV) at the time of the most recent Cash Assistance case closure.

##### B. Cash Assistance Diversion Participants.

- 1. Applicants for Cash Assistance who are diverted from long-term Cash Assistance through the Cash Assistance Diversion program shall be treated as Cash Assistance participants during the three-month period that the Cash Assistance Diversion payment covers.
- 2. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for employment activities without regard to income as prescribed in R6-5-4914(A) during the three-month Diversion period.
- 3. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for job search activities during the three-month Diversion period.

- 4. Cash Assistance Diversion participants shall be eligible for Transitional Child Care after the three-month Diversion period if the income eligibility requirements in R6-5-4914(B) and the TCC requirements in subsection (A) of this provision are met.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-5-4917. Waiting List for Child Care Assistance

##### A. Implementation of a Waiting List for Child Care Assistance.

- 1. The Department may implement a waiting list for Child Care Assistance whenever it determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.
  - a. The Department may implement a waiting list for all applicants under subsection (B); or,
  - b. The Department may implement a partial waiting list and prioritize access to Child Care Assistance for applicants based on income under subsection (D).
- 2. When the waiting list is in effect, the Department shall place applicants determined to be eligible for Child Care Assistance on the waiting list under this subsection, and shall not authorize Child Care Assistance until the Department determines that sufficient funding is available.

##### B. Applicants Who Are Subject To the Waiting List. When the waiting list is in effect, the Department shall place applicants determined to be eligible for Child Care Assistance on the waiting list, including individuals who are reapplying for Child Care Assistance following case closure. The Department shall place the following applicants on the waiting list:

- 1. Applicants who are not Cash Assistance participants but who need Child Care Assistance to maintain employment under R6-5-4912(A).
- 2. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D).
- 3. Applicants who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).

##### C. Applicants Who Are Not Subject To the Waiting List. When the waiting list is in effect, the Department shall not place the following applicants determined eligible for Child Care Assistance on the waiting list, and shall proceed to authorize Child Care Assistance under R6-5-4918.

- 1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B).
- 2. Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4904(B).
- 3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS

- or foster care case plan, and who are referred to CCA under R6-5-4904(B).
4. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
- D. Prioritization of Applicants for Child Care Assistance When the Waiting List Is In Effect.** The Department shall prioritize applicants for authorization of Child Care Assistance when the waiting list is in effect under this subsection.
1. **Prioritization Based On Income.**
    - a. Families with gross monthly incomes at or below 100% of the Federal Poverty Level (FPL) receive the highest priority for assistance;
    - b. The Department shall prioritize the remainder of families applying for Child Care Assistance when the waiting list is in effect in the following order:
      - i. Families with gross monthly incomes between 101% FPL and 110% FPL;
      - ii. Families with gross monthly incomes between 111% FPL and 120% FPL;
      - iii. Families with gross monthly incomes between 121% FPL and 130% FPL;
      - iv. Families with gross monthly incomes between 131% FPL and 140% FPL;
      - v. Families with gross monthly incomes between 141% FPL and 150% FPL;
      - vi. Families with gross monthly incomes between 151% FPL and 160% FPL;
      - vii. Families with gross monthly incomes between 161% FPL and 165% FPL;
  2. **Prioritization Based On Application Date.** The Department shall place clients determined eligible for Child Care Assistance on the waiting list effective the date that the Department receives an identifiable application, under R6-5-4904(A)(2).
- E. Cooperation Requirement for Clients on the Waiting List.**
1. Clients shall cooperate with the Department to maintain eligibility while on the waiting list, under R6-5-4911(A).
  2. If the family's household income changes, the client shall notify the Department of the change in income within 2 workdays.
  3. If someone moves in or out of the household, the client is required to notify the Department within 2 workdays.
  4. The Department shall recalculate gross household income and notify the client of any changes in priority status described under subsection (D) based on the change in income or family size.
- F. Loss of Employment While On the Waiting List.**
1. If the parent or caretaker of the child loses employment while on the waiting list, the family may remain on the waiting list without an eligible activity.
  2. When the Department selects the family for release from the waiting list under subsection (H), the Department shall require the parent or caretaker of the child to verify participation in an eligible activity under R6-5-4912 before the Department authorizes the family to receive Child Care Assistance.
- G. Determination of Ineligibility While On the Waiting List.**
1. If the family becomes ineligible for Child Care Assistance while on the waiting list, or during release from the waiting list under subsection (J), the Department shall remove the client from the waiting list and close the case.
  2. The client shall submit a new application and verify eligibility for Child Care Assistance in order to be added back onto the list effective the new application date.
- H. Selection from the Waiting List.**
1. The Department shall select clients for release from the waiting list within each level of income priority as described under subsection (D), and in application date order.
  2. When the Department notifies the client that he or she is being released from the waiting list, the Department may require the client to verify income, employment, other household circumstances or provider selection prior to being authorized for Child Care Assistance.
- I. Clients Determined Eligible Upon Selection for Release from the Waiting List.**
1. The Department shall authorize Child Care Assistance effective a date specified by the Department based on the availability of funding, after the client has submitted any requested verification and the Department has determined that the family remains eligible for Child Care Assistance.
  2. If the client is eligible for Child Care Assistance, the Department shall authorize Child Care Assistance, and shall notify the client in writing regarding:
    - a. The start date of Child Care Assistance;
    - b. The amount of assistance authorized for each child under R6-5-4918; and
    - c. The assigned fee level and copayment for each child.
- J. Clients Determined Ineligible Upon Selection for Release from the Waiting List.**
1. If the client is not eligible for Child Care Assistance as described in R6-5-4920, the Department shall notify the client regarding ineligibility under R6-5-4921.
  2. The Department shall require the client to submit a new application and verify eligibility for Child Care Assistance in order to be added back onto the list effective the new application date, if a waiting list remains in effect.
- K. Clients Selected for Release from the Waiting List in Error.**
1. If the Department determines that a client was not eligible for selection from the waiting list, and the waiting list remains in effect, the Department shall proceed as described under this subsection.
  2. If the Department determines that the client is currently at a lower level of priority for assistance under subsection (D)(1) due to a previously unreported change in income or family size, the Department shall not authorize Child Care Assistance.
  3. The Department shall reinstate the client on the waiting list effective the existing application date; and,
  4. Notify the family in writing of reinstatement to the waiting list and the newly assigned level of priority.

#### Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4917 renumbered to R6-5-4918; new R6-5-4917 made by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Editor's Note:** *The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4918. Authorization of Child Care Assistance**

- A.** Authorization Based on Eligible Activity or Need. The Department shall authorize Child Care Assistance for a portion of each 24-hour day based on the verified eligible activity or need of the parent and responsible person for the child needing care.
- B.** Authorization Based on Unavailability. The amount of Child Care Assistance authorized by the Department shall be based on the amount of time that the client and any other parent or responsible person in the household are unavailable or incapable to provide care to their own children due to an eligible activity or need as prescribed in R6-5-4911(F) and R6-5-4912. When there are two or more parents or responsible persons in the household, Child Care Assistance shall be authorized for the amount of time that neither parent or responsible person is available due to an eligible activity or need.
- C.** Authorization for Self-employment Activities.
1. The Department shall authorize Child Care Assistance for self-employment activities based on monthly net income divided by the current hourly minimum wage standard.
  2. Authorization of Child Care Assistance for self-employment activities shall not exceed the lesser of:
    - a. The maximum number of Child Care Assistance units that can be authorized as prescribed in subsections (B) and (D), or
    - b. The number of hours calculated by dividing monthly net income from self-employment by the amount of the hourly minimum wage standard, or
    - c. The number of hours of Child Care Assistance needed by the client to perform self employment activities.
- D.** Six-child Authorization Limit.
1. The Department shall authorize no more than six children in the eligible family at any given point in time.
    - a. The six-child authorization limit applies to clients under this subsection.
      - i. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment;
      - ii. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D); and
      - iii. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).
    - b. The six-child authorization limit shall not apply to the following clients:
      - i. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B);
      - ii. Cash Assistance participants who need Child Care Assistance to maintain employment;
      - iii. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA under R6-5-4904(B); and
      - iv. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
    - c. For eligible families who are not subject to the six-child limit, there is no limit to the number of eligible

children whom the Department can authorize to receive Child Care Assistance in the eligible family.

2. If the eligible family requests Child Care Assistance for more than six children, the family shall select the six children to be authorized to receive Child Care Assistance.
  3. If the family fails to designate six children to receive Child Care Assistance as requested, the Department shall authorize the six youngest children.
  4. If the client is already receiving Child Care Assistance for six children and requests assistance for a new child, the Department shall not authorize assistance for the new child until the client notifies the Department which child will no longer receive Child Care Assistance.
- E.** Units of Child Care Assistance.
1. The Department shall authorize Child Care Assistance in full- and part-day units;
  2. The Department shall not authorize more than 31 units for each child, per child care provider in a calendar month;
  3. A part-day unit of Child Care Assistance is less than six hours;
  4. A full-day unit of Child Care Assistance is six hours or more;
  5. Each child care provider determines the upper limit of what constitutes a full day of care for that provider.
- F.** Date of Eligibility. The Department shall approve eligibility for Child Care Assistance effective the application file date or referral receipt date as described in R6-5-4904 if the client satisfies all applicable conditions of eligibility as prescribed in this Article.
- G.** Date of Authorization.
1. The Department shall authorize Child Care Assistance to begin effective the start date of the eligible activity or need, but not earlier than application file date, request date, or referral receipt date as described in R6-5-4904.
  2. The Department may authorize Child Care Assistance with an effective date that precedes the referral receipt date when the referral is received untimely due to administrative delay and the eligible start date of the activity or need precedes the referral receipt date for clients who are referred for Child Care Assistance as described in R6-5-4904 (B).
- H.** Exclusion from Authorization. The Department shall not authorize Child Care for educational services for children enrolled in grades 1 through 12 when such services are provided during the regular school day.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4918 renumbered to R6-5-4920; new R6-5-4918 renumbered from R6-5-4917 and amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4919. Time Limit for Child Care Assistance**

Under A.R.S. § 46-803(K), each child shall receive time-limited Child Care Assistance, unless the child's parents or caretakers qualify for an extension under this Section.

- A.** Clients Who Are Subject To the Time Limit.



1. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment;
  2. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D); and
  3. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).
- B. Clients Who Are Not Subject To the Time Limit.**
1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B);
  2. Cash Assistance participants who need Child Care Assistance to maintain employment;
  3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA under R6-5-4904(B); and
  4. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
- C. Effective Date of the Time Limit.** The 60-month time limit shall begin:
1. For applicants of Child Care Assistance eligible under any of the categories listed in subsection (A) who file an application on or after January 1, 2007, on the date the application is received by the Department.
  2. For clients receiving Child Care Assistance on January 1, 2007 under subsection (A), January 1, 2007.
  3. For clients receiving Child Care Assistance on January 1, 2007 under subsection (B), the first date that the Department determines that the existing client is eligible for Child Care Assistance under one of the categories described in subsection (A).
- D. Calculation of the Time Limit.**
1. Each child receiving Child Care Assistance under subsection (A) shall receive time-limited assistance for:
    - a. Any combination of 1380 paid full or part day child care units; or
    - b. Child Care Assistance that spans 60 calendar months, whichever is later. A calendar month is one in which the Department pays for at least one full- or part-day unit.
  2. Any unit of assistance used by the child, and later identified as a provider or agency caused overpayment shall not count toward the child's time limit.
  3. Any unit of assistance used by the child, and later identified as a client-caused overpayment shall not count toward the child's time limit, if the family repays the overpayment.
  4. The Department shall apply the time limit individually to each child in the family, and not to the parent or caretaker of the child.
    - a. If a different caretaker applies for the child at a later point in time, each child will be entitled to the remaining portion of time-limited Child Care Assistance that has not yet been utilized.
    - b. Any Child Care Assistance utilized by the child as part of an eligible family that was exempt from the time limit under subsection (B) shall not count toward the child's time limit.
- E. Expiration of the Time Limit.**
1. When a child exhausts time-limited of Child Care Assistance under this subsection, the Department shall stop assistance for the child unless the parents or caretakers of the child qualify for an extension under Section (F).
2. When all of the children in a family have exhausted the time limits of Child Care Assistance, the Department shall terminate assistance for the family unless the parents or caretakers:
- a. Qualify for an extension under subsection (F); or,
  - b. Are no longer subject to the time limit as described in subsection (B).
- F. Extension of the Time Limit for Child Care Assistance.**
1. The Department shall grant a 6-month extension to the time limit if the parents or caretakers show efforts toward self-sufficiency during the most recent 6-month period. The Department may elect to grant extensions on a 12-month basis. In order to qualify for an extension, the parents or caretakers in the family shall:
    - a. Currently be engaged in an activity that promotes self-sufficiency, which means the parents or caretakers continue to:
      - i. Be employed a monthly average of 20 or more hours per week;
      - ii. Be employed less than 20 hours per week and earning at least minimum wage;
      - iii. Be employed a monthly average of at least 20 hours per week while attending school or training;
      - iv. Remain self-employed with a net profit equating to a monthly average of 20 hours per week times minimum wage;
      - v. Attend high school, G.E.D. classes, or remedial education for the attainment of a high school diploma for a teen parent under 20 years of age;
      - vi. Follow the treatment plan prescribed by a physician, psychiatrist, psychologist for the treatment of a specified mental, physical, or emotional condition, which precludes the parent or caretaker for caring for his or her own child for a portion of a 24-hour day;
      - vii. Participate in a drug/alcohol rehabilitation plan or court-ordered community service plan; or
      - viii. Participate in a homeless or domestic violence case plan while residing in a shelter; and,
    - b. Sign and date the "Self-Sufficiency Statement" and declare that the parents or caretakers have taken at least one of the following actions during the most recent six or 12-month period to promote self-sufficiency:
      - i. Received a job promotion, or an increase in wages, hours, or benefits;
      - ii. Remained consistently employed;
      - iii. Remained self-employed and consistently demonstrated a net profit;
      - iv. Applied for a better job;
      - v. Left one job for a better job (higher pay, more hours, better schedule, or better benefits);
      - vi. Registered with DES Employment Services (e.g., One Stop Career Center or DES Job Service) or another public or private employment agency, or job searched independently;
      - vii. Not requested Cash Assistance;
      - viii. Engaged in activities to pursue or maintain child support payments from an absent parent through DES Child Support Enforcement, the county attorney's office, or a private attorney;

- ix. Attended work-related school or training, or pursued a degree or certificate that will lead to enhanced career opportunities;
  - x. Attended high school, remedial education for the attainment of a high school diploma or G.E.D. classes;
  - xi. Attended English for Speakers of Other Languages (E.S.O.L.) classes;
  - xii. Attended a trade or vocational school, college or university and made satisfactory progress in the activity;
  - xiii. Continued with a course of treatment under the direction of a physician, psychiatrist, or psychologist;
  - xiv. Followed a shelter case plan while residing in a domestic violence/homeless shelter;
  - xv. Participated in or completed a drug/alcohol rehabilitation or court-ordered community service program;
  - xvi. Participated in other employment-related activities or career-related training activities; or
  - xvii. Any other similar action acceptable to the Department that demonstrates that the parents or caretakers are moving toward self sufficiency.
2. If the parents or caretakers do not meet the conditions specified at subsections (1)(a) and (b), the family does not qualify for an extension of the time limit.
  3. If the parents or caretakers meet the conditions specified at subsections (1)(a) and (b), and all other eligibility criteria are met, the family shall qualify for additional six or 12-calendar month extension periods if the parents or caretakers continue to meet the criteria at the end of each extension period.

**G. Extension of the Time Limit after Case Closure.** When a parent or caretaker applies for Child Care Assistance after the time limit for the child in care has been exhausted, the parent or caretaker of the child may qualify for an extension as follows:

1. The parent or caretaker shall be an eligible applicant under R6-5-4911(B), and shall meet the criteria for Child Care Assistance eligibility;
2. All parents or caretakers shall meet the self-sufficiency criteria prescribed at R6-5-4919(F); and
3. The parent or caretaker may qualify for successive extensions of the time limit under subsection (F).

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4919 renumbered to R6-5-4921; new R6-5-4919 made by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4920. Denial or Termination of Child Care Assistance**

The Department shall deny or terminate Child Care Assistance and provide written notification as prescribed in R6-5-4921 when the client:

1. Is not an eligible applicant as prescribed in R6-5-4911(B);
2. Is not a U.S. citizen or legal resident of the U.S.;
3. Is not a resident of the state of Arizona;
4. Has no children under the age of 13;
5. Has income that exceeds the maximum allowable as prescribed in R6-5-4914(C);
6. Does not have an eligible need, and is not engaged in an eligible activity as prescribed in R6-5-4912;
7. Is available to care for the children for whom assistance is requested (or there is another parent or responsible person in the household who is not engaged in an eligible activity and is available to provide care);
8. Has not provided the information or documentation required for a determination or redetermination of eligibility;
9. Has failed to cooperate in the arrangement of child care services;
10. Has not selected a child care provider who is registered with the Department;
11. Has requested that the application be withdrawn or that assistance be terminated;
12. Is a member of a family that already has an active case or pending application on file for Child Care Assistance;
13. Cannot be located by phone or mail and mail addressed to last known address has been returned;
14. Is deceased, incarcerated, or confined to an institution; or
15. Does not satisfy one or more eligibility criteria listed in R6-5-4904 through R6-5-4916;
16. Has exhausted the 60-month lifetime limit for all children in the eligible family under R6-5-4919(D) and does not qualify for an extension.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4920 renumbered to R6-5-4923; new R6-5-4920 renumbered from R6-5-4918 and amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4921. Notification Requirements**

- A.** The Department shall mail or deliver written notice to the client as follows:
1. On a decision about an application, within 30 calendar days of the date that the Department receives the completed application.
  2. On a positive action, the Department shall mail adequate notice on or before the date the action will become effective.
  3. On a change in the amount of authorized units based on a change in need, the Department shall mail adequate notice on or before the date the action will become effective.
  4. On a negative action, the Department shall mail the notice at least 10 calendar days in advance of the date the action will become effective.

5. On changes in law or policy which affect entire classes or groups and concern issues not related to individual questions of fact, the Department shall issue notice of such action at least 10 calendar days in advance of the effective date of the action.
- B. The Department shall not provide notice on a negative action when:
  1. Child Care Assistance authorized for a specified period of time is terminated and the individual was informed in writing of the termination date when the Child Care Assistance was initiated;
  2. The applicant, client, or child is deceased; and
  3. There is a loss of contact with the client and mail addressed to the last known address has been returned.
- C. Written notice shall include a statement of the action to be taken, the reasons for the intended action, citation to the specific rule supporting the action, and an explanation of the client's rights regarding a request for a fair hearing.

**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4921 renumbered to R6-5-4924; new

R6-5-4921 renumbered from R6-5-4919 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4922. Repealed****Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section repealed by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

*Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005(A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**R6-5-4923. Overpayments****A. Overpayments; Date of Discovery.**

1. The Department shall pursue collection of all client- and provider-caused overpayments.
2. The Department discovers an overpayment on the date the Department determines that an overpayment exists.
3. The Department shall write an overpayment report within 90 days of the discovery date.
4. If the CCA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
5. The Department shall not attempt to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of fraud, and the Department has exhausted reasonable efforts to collect

the overpayment and has determined that it is no longer cost effective to pursue the claim.

**B. Overpayments: Persons Liable.** The Department shall pursue collection of an overpayment from:

1. The client if the overpayment was caused by the client;
2. Any individual member of the family who was included in family size as prescribed in R6-5-4914 (D) during the overpayment period if the overpayment was caused by the client; or
3. The child care provider if the overpayment was caused by the provider.

**Historical Note**

Adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Secretary of State's Office June 30, 1998 (Supp. 98-2). Former R6-5-4923 renumbered to R6-5-4925; new R6-5-4923 renumbered from R6-5-4920 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**R6-5-4924. Appeals****A. Entitlement to a Hearing.**

1. An applicant for or recipient of Child Care Assistance is entitled to a hearing to contest the following Department actions:
  - a. Denial of the right to apply for assistance;
  - b. Complete or partial denial of an application for assistance;
  - c. Failure to make an eligibility determination on an application within 30 days of the application file date;
  - d. Suspension, termination, reduction, or withholding of assistance except as provided in subsection (B);
  - e. Increase in the fee level and DES-required copayment amount; or
  - f. The existence or amount of an overpayment attributed to the family or the terms of a plan to repay the overpayment.
2. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.

**B. Request for Hearing; Time Limits.**

1. A person who wishes to appeal a negative action shall file a written request for a fair hearing with a local CCA office, within 10 days of the negative action notice date.
2. A request for a hearing is deemed filed;
  - a. On the date it is mailed, if transmitted via the United States Postal Service or its successor. The mailing date is as follows:
    - i. As shown by the postmark;
    - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
    - iii. The date entered on the document as the date of its completion, if there is no postmark or no postage meter mark, or if the mark is illegible.
  - b. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(2)(a).
3. The submission of any document is considered timely if the appellant proves that delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

4. Any document mailed by the Department is considered as having been given to the addressee on date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts.
  5. The Office of Appeals shall deny any request that is not timely filed. A party may appeal a decision on the timeliness of an appeal.
- C. Hearing Requests; Preparation and Processing.**
1. Within two work days of receiving a request for appeal, the local CCA office shall notify the Office of Appeals of the hearing request.
  2. Within 10 days of receiving a request for appeal, the local CCA office shall prepare and forward to the Office of Appeals a prehearing summary which shall include:
    - a. The appellant's name (and case name, if different);
    - b. The appellant's SSN (or case number, if different);
    - c. The local office responsible for the appellant's case;
    - d. A brief summary of the facts surrounding, and the grounds supporting, the negative action;
    - e. Citations to the specific provisions of this Article or the Department's CCA manual which support the Department's action; and
    - f. The decision notice and any other documents relating to the appeal.
  3. The local office shall mail the appellant a copy of the summary. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearings.
- D. Continuation of Assistance Pending Appeal; Exceptions.**
1. If an appellant files a request for appeal within 10 calendar days of the negative action notice date, the Department shall continue assistance at the current level unless:
    - a. The appellant waives continuation of current assistance,
    - b. The appeal results from a change in federal or state law which mandates an automatic adjustment for all classes of recipients and does not involve a misapplication of the law, or
    - c. The appellant is requesting continuation of TCC benefits for longer than the 24-month eligibility period.
  2. The negative action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
    - a. At the hearing and on the record, the hearing officer finds that the sole issue involves application of law, and the Department properly applied the law and computed the assistance due the appellant;
    - b. A change in eligibility or assistance amount occurs for reasons other than those being appealed, and the eligible family receives and fails to timely appeal a notice of negative action concerning such change;
    - c. Federal or state law mandates an automatic adjustment for classes of recipients;
    - d. The appellant withdraws the request for hearing; or
    - e. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.
  3. Upon receipt of a decision in favor of the Department, the Department shall write an overpayment for the amount of any assistance the family received in excess of the correct amount, while the stay was in effect.

**Historical Note**

Section R6-5-4924 renumbered from R6-5-4921 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**R6-5-4925. Maximum Reimbursement Rates For Child Care**

The Department shall pay the maximum reimbursement rates for child care as set forth in Appendix B.

**Historical Note**

Section R6-5-4925 renumbered from R6-5-4923 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

**Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule**

ARIZONA DEPARTMENT OF ECONOMIC SECURITY  
**CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE**  
 EFFECTIVE JULY 1, 2012

Family Size ↓	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0 – 792	793 – 931	932 – 1,257	1,258 – 1,350	1,351 – 1,444	1,445 – 1,537
2	0 – 1,072	1,073 – 1,261	1,262 – 1,703	1,704 – 1,829	1,830 – 1,955	1,956 – 2,081
3	0 – 1,353	1,354 – 1,591	1,592 – 2,148	2,149 – 2,307	2,308 – 2,467	2,468 – 2,626
4	0 – 1,633	1,634 – 1,921	1,922 – 2,594	2,595 – 2,786	2,787 – 2,978	2,979 – 3,170
5	0 – 1,914	1,915 – 2,251	2,252 – 3,039	3,040 – 3,264	3,265 – 3,490	3,491 – 3,715
6	0 – 2,194	2,195 – 2,581	2,582 – 3,485	3,486 – 3,743	3,744 – 4,001	4,002 – 4,259
7	0 – 2,475	2,476 – 2,911	2,912 – 3,930	3,931 – 4,221	4,222 – 4,513	4,514 – 4,804
8	0 – 2,755	2,756 – 3,241	3,242 – 4,376	4,377 – 4,700	4,701 – 5,024	5,025 – 5,348
9	0 – 3,036	3,037 – 3,571	3,572 – 4,821	4,822 – 5,178	5,179 – 5,536	5,537 – 5,893
10	0 – 3,316	3,317 – 3,901	3,902 – 5,267	5,268 – 5,657	5,658 – 6,047	6,048 – 6,437
11	0 – 3,597	3,598 – 4,231	4,232 – 5,712	5,713 – 6,135	6,136 – 6,559	6,560 – 6,909**
12	0 – 3,877	3,878 – 4,561	4,562 – 6,158	6,159 – 6,614	6,615 – 7,050**	

**MINIMUM REQUIRED CO-PAYMENTS**

Per child in care	full day = \$1.00 part day = \$.50	full day = \$2.00 part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
-------------------	---------------------------------------	--	--	--	--	---

**For families receiving Transitional Child Care (TCC) there is no co-pay assigned beyond the third child in the family.**

Full day = Six or more hours; Part day = Less than six hours.

Families receiving Child Care Assistance based on Child Protective Services/Foster Care, the Jobs Program or those who are receiving Cash Assistance (CA) and are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the minimum required co-payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

\*Federal Poverty Level (FPL) = US DHHS 2012 poverty guidelines. The Arizona state statutory limit for child care assistance is 165% of the Federal Poverty Level.

\*\*The Federal Child Care & Development Funds statutory limit (for eligibility for child care assistance) is 85% of the state median income.

**Historical Note**

Appendix A adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Appendix A repealed; new Appendix A adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2). Appendix A repealed; new Appendix A adopted by exempt rulemaking at 5 A.A.R. 2379, effective July 1, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 2726, effective July 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 3111, effective July 1, 2001 (Supp. 01-2). Amended by exempt rulemaking at 8 A.A.R. 2952, effective July 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 3207, effective July 1, 2003 (Supp. 03-3). Amended by exempt rulemaking at 10 A.A.R. 2938, effective July 1, 2004 (Supp. 04-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 11 A.A.R. 2731, effective July 1, 2005 (Supp. 05-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 11 A.A.R. 4137, effective October 1, 2005 (Supp. 05-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 12 A.A.R. 2700, effective July 1, 2006 (Supp. 06-3). Appendix A amended by exempt rulemaking at 13 A.A.R. 2583, effective July 1, 2007 (Supp. 07-2). Appendix A amended by exempt rulemaking at 14 A.A.R. 2859, effective July 1, 2008 (Supp. 08-2). Appendix A amended by exempt rulemaking at 15 A.A.R. 702, effective April 1, 2009 (Supp. 09-1). Appendix A repealed; new Appendix A made by exempt rulemaking at 15 A.A.R. 1222, effective July 1, 2009 (Supp. 09-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 17 A.A.R. 1334, effective July 1, 2011 (Supp. 11-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 18 A.A.R. 2070, effective July 1, 2012 (Supp. 12-3).

*Editor's Note: The following Appendix was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005(A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Appendix to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Appendix.*

**Appendix B. Maximum Reimbursement Rates for Child Care**

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY  
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES  
CHILD CARE ADMINISTRATION**

**MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE  
(effective for services provided on or after 7/1/2007)**

**CENTERS**

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	31.71	28.35	23.52	22.05	31.50	33.60
Part day	23.52	20.79	19.32	19.95	26.25	26.25
1 yr < 3 yrs:						
Full day	27.93	26.25	21.84	19.95	29.40	21.84
Part day	21.00	19.07	18.90	18.90	15.75	18.48
3 yrs < 6 yrs:						
Full day	24.99	23.19	21.00	18.90	21.00	19.95
Part day	17.85	16.80	15.75	16.80	13.02	13.65
6 yrs < 13 yrs:						
Full day	24.57	23.10	17.85	17.85	20.10	19.95
Part day	16.80	15.75	14.70	15.75	14.00	13.65

**GROUP HOMES**

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	25.20	23.10	24.15	21.00	19.95	22.26
Part day	16.80	16.80	24.15	14.70	13.13	18.90
1 yr < 3 yrs:						
Full day	23.10	23.10	23.10	18.90	19.95	22.31
Part day	15.75	16.80	15.75	12.60	12.60	17.85
3 yrs < 6 yrs:						
Full day	21.00	21.00	23.10	18.90	19.95	19.43
Part day	15.75	16.80	14.65	12.60	12.60	16.80
6 yrs < 13 yrs:						
Full day	18.90	21.00	17.85	18.90	19.95	19.42
Part day	14.70	16.60	14.65	12.60	12.60	17.85

**CERTIFIED FAMILY HOMES AND CERTIFIED IN-HOME PROVIDERS**

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	21.00	19.95	18.90	18.90	21.00	18.90
Part day	14.70	12.60	10.50	11.03	12.60	10.50
1 yr < 3 yrs:						
Full day	21.00	18.90	17.85	17.85	20.10	17.85
Part day	13.65	12.60	10.50	11.03	11.55	10.50
3 yrs < 6 yrs:						
Full day	18.90	18.90	16.80	17.85	18.90	16.80
Part day	12.60	12.60	10.50	11.03	10.50	10.50
6 yrs < 13 yrs:						
Full day	17.85	18.90	16.80	16.80	18.90	16.80
Part day	12.60	11.55	10.50	10.50	10.50	10.50

The actual reimbursement amount is equal to the reimbursement rate minus any DES designated co-payment. However, in no event shall the amount reimbursed exceed the lesser of the provider's actual charges or the maximum reimbursement rate minus any DES designated co-payment.

Payment Rates for Non-Certified Relative Providers (NCRPs) will be \$11.03 for Full day and \$6.30 for Part day, minus any DES designated co-payment. This rate will be paid to NCRPs statewide for care provided to children of all ages.

The maximum reimbursement rates may be increased by up to ten percent for child care providers who are nationally accredited.

Full day = six or more hours per day. Part day = less than six hours per day.

#### Historical Note

Appendix B adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2). Appendix B repealed; new Appendix B adopted by exempt rulemaking at 5 A.A.R. 2379, effective July 1, 1999 (Supp. 99-3). "Non-Certified Relative Providers" section amended by exempt rulemaking at 6 A.A.R. 2726, effective July 1, 2000 (Supp. 00-2). "Centers," "Group Homes," and "Certified Family Homes and Certified In-home Providers" sections amended by exempt rulemaking at 7 A.A.R. 4884, effective October 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 3207, effective July 1, 2003 (Supp. 03-3). Appendix B amended by exempt rulemaking at 13 A.A.R. 2443, effective July 1, 2006 (Supp. 07-1). Appendix B amended by exempt rulemaking at 13 A.A.R. 2586, effective July 1, 2007 (Supp. 07-2).

### ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM

#### R6-5-5001. Definitions

The following definitions apply in this Article.

1. "ADE" means the Arizona Department of Education, which administers the CACFP at the state level.
2. "Alternate approval" means a status the ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE.
3. "Caregiver state licensing ratio requirements" means Arizona Department of Health Services (DHS) regulations that mandate DHS oversight of child care facilities with five or more children in care for compensation where child care is provided for periods of less than 24 hours per day.
4. "Child care" means a compensated service that is provided to a child unaccompanied by a parent or guardian during a portion of a 24-hour day. The service includes supervised and planned care, training, recreation, and socialization.
5. "CACFP" means the Child and Adult Care Food Program, funded and administered at the federal level by the Food and Consumer Services, a program of the U.S. Department of Agriculture.
6. "CCR&R" means child care resource and referral, a service the Department administers under A.R.S. § 41-1967.
7. "Center" means the same as "child care facility" in A.R.S. § 36-881(3).
8. "Certified" or "licensed" means a provider holds a license as prescribed in A.R.S. § 36-882, or is certified under A.R.S. § 46-807 or A.R.S. § 36-897.
9. "Child with special needs" means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, within a child care setting, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child with a disability.
10. "Compensation" means something given or received in return for child care, such as money, goods, or services.
11. "Contractor" means an agency with which the Department contracts for provision of CCR&R services.
12. "Customer" means a person who is requesting information from a CCR&R contractor.
13. "Database" means a computerized collection of CCR&R facts, figures, and information for licensed, certified, and registered providers and customers arranged for ease and speed of retrieval.
14. "Department" or DES means the Arizona Department of Economic Security.
15. "Dropped for cause" means an ADE Sponsoring Organization has terminated a family child care provider from participation in the CACFP.
16. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR&R database.
17. "Family child care" means child care provided by a certified or registered provider in the provider's own home.
18. "In-home child care" means child care provided in a child's own home.
19. "Information only listing" means a provider listed on the CCR&R who will receive training information and other information about child care issues and activities, but who will not receive any referrals.
20. "Listing status" means the condition under which a provider may receive a referral (referral listing) or is restricted from receiving a referral (information only listing).
21. "Over-Ratio Referral Form" means a communication tool used to relay to the Department of Health Services (DHS) information concerning a potential violation of caregiver state licensing ratio requirements.
22. "Personally identifiable information" means any information about a person other than a provider, that, when considered alone, or in combination with other information, identifies or permits another person to readily identify the person who is the subject of the information. Personally identifiable information includes:
  - a. Name, address, and telephone number;
  - b. Date of birth or age;
  - c. Physical description;
  - d. School;
  - e. Place of employment; and
  - f. Any unique identifying number, such as driver's license number, a social security number, or regulatory license number.
23. "Program Administrator" means the person who oversees the Child Care Administration, a unit of the Department.
24. "Provider" means an adult who, or a facility that, provides child care services.
25. "Provider type" means a category of provider or program such as a center, family child care, and in-home child care.
26. "Referral" means the information listed in R6-5-5005(C), (D), and (E), that a Contractor gives to a customer.

27. "Referral listing" means that a contractor may refer a provider listed on the CCR&R registry or database to customers, and the provider may receive training and other information about child care issues and activities.
28. "Registered provider" means a family child care provider who is an adult and is not licensed or certified by any government agency, but who meets the requirements to be listed in the CCR&R registry.
29. "Registry" means the list of providers that:
  - a. Are not licensed or certified by a government agency,
  - b. Voluntarily list with CCR&R, and
  - c. Meet the requirements under A.R.S. § 41-1967 to receive referrals and training information.
30. "Regulated" means a provider who is required to meet licensing or certification standards set by a government agency, including a federal, state, or tribal government agency.
31. "Revocation" means the permanent removal of a child care provider's license or certificate by a government agency.
32. "SDA" means service delivery area, which is a specific geographic area where CCR&R services are offered.
33. "Sponsoring organization" means a public or non-profit private organization that administers the CACFP on behalf of ADE.
34. "Suspension" means that a regulatory agency has temporarily removed a provider's certificate or license.
35. "Work day" means Monday through Friday, excluding Arizona state holidays.

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### R6-5-5002. Provider Participation Requirements

- A. To be considered for inclusion in the CCR&R database, a provider shall submit the following information to the Contractor for the provider's SDA:
  1. Provider's name;
  2. Address;
  3. Phone number;
  4. Days and times the facility is open;
  5. Ages of children accepted;
  6. Capacity;
  7. Regulatory affiliation, if any;
  8. Meals provided to children in care;
  9. Training and experience;
  10. Accreditation;
  11. Fees;
  12. School transportation;
  13. DES Provider ID, if applicable;
  14. The provider's choice of listing status; and
  15. DHS Child Development Center (CDC) or Small Group Home (SGH) number.
- B. Regulated Providers: Before adding a regulated provider to the CCR&R database, the Contractor shall confirm the provider's regulatory affiliation with the appropriate regulatory agency. For the purpose of this subsection, confirmation of the regulatory affiliation is based solely on the accuracy of the information obtained from the regulatory agency.
- C. Registered Providers: The provisions in this subsection govern provider participation requirements for registered family child care providers.

1. In addition to the information listed in subsection (A), a registered family child care provider shall complete and submit to the Contractor, on Department-approved forms, a notarized sworn statement and a notarized certification statement attesting that the provider is not subject to exclusion or removal from the CCR&R database under any of the grounds specified in A.R.S. § 41-1967(E).
2. Before adding a registered family child care provider to the CCR&R registry and database, a Contractor shall review the provider's sworn statement and certification statement described in subsection (C)(1) and include on the registry only those providers who affirm that they are not subject to exclusion or removal under A.R.S. § 41-1967(E).
3. Before adding a registered family child care provider to the CCR&R registry and database, a Contractor shall receive clearance from the Department that neither a provider nor anyone providing care in the provider's home has had a child abuse or neglect investigation that has been substantiated by Child Protective Services (CPS) in this state.

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### R6-5-5003. Notification of Changes

- A. A provider listed on the CCR&R database shall notify the Contractor of any changes to the information or statement given under R6-5-5002(A) or (C)(1).
- B. A provider may modify self-initiated changes in listing status at any time by notifying the Contractor.

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### R6-5-5004. Referrals Not Guaranteed

- A. A Contractor shall make referrals to participating providers on a random basis based on a family's self-reported needs.
- B. A Contractor shall not:
  1. Guarantee the number or frequency of referrals to a participating provider; or
  2. Guarantee that listing on the CCR&R will result in economic benefit or gain to a participating provider.

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### R6-5-5005. Referral Process

- A. To obtain a referral, a customer shall give the contractor the following information, if available, about the customer's child care needs:
  1. Customer name;
  2. Address;
  3. Phone number;
  4. Days and times child care is needed;
  5. Preferred type of child care provider;
  6. Location where care is needed or preferred, and



7. Age of child.
  - B.** A Contractor shall give a customer a referral that is consistent with the customer's stated preferences.
    1. The Contractor shall not make a referral unless the Contractor can give the customer the names of at least three potential providers within the customer's search parameters.
    2. If the Contractor cannot name at least three potential providers meeting the customer's stated preferences, the Contractor shall ask the customer to expand the search parameters until the Contractor can name at least three potential providers.
  - C.** The Contractor shall provide the customer with provider profile information on each referred provider, including the following:
    1. Provider's name;
    2. Address or major cross streets;
    3. Phone number;
    4. Days and hours of operation;
    5. Ages of children accepted;
    6. Ratio and capacity;
    7. Regulatory affiliation, if any;
    8. Meal information;
    9. Training and experience;
    10. Accreditation;
    11. Fees and available subsidies;
    12. School transportation.
  - D.** As part of a referral, a Contractor shall give each customer written information that includes the following:
    1. That the Contractor selects providers based on the customer's stated preferences;
    2. That the Contractor provides referrals and does not recommend, endorse, or guarantee any particular child care provider;
    3. That the Contractor does not regulate, monitor, or verify information supplied by a provider;
    4. That a child's parent or guardian is solely responsible for choosing an appropriate child care provider to meet a family's needs; and
    5. That a provider's listing status may change after their initial placement on the registry or database and that customers are encouraged to call back periodically for updated information.
  - E.** As part of a referral, a Contractor shall provide the customer with the following Department-approved educational information:
    1. A list of criteria to consider when selecting quality child care;
    2. A description of the types of child care providers in Arizona;
    3. A description of CCR&R services and a list of office locations and phone numbers statewide; and
    4. An explanation of the process for filing a child care related complaint.
- or investigate any complaint about a provider, except as otherwise prescribed by law for a family child care provider.
- B.** Regulated Providers: Upon receipt of a complaint about a regulated provider, a Contractor shall refer the complainant to the appropriate regulatory agency, law enforcement agency, or Child Protective Services.
  - C.** Registered Providers: The provisions in this subsection govern complaints about a registered provider.
    1. Any person may complain about a registered family child care provider on the registry by notifying a Contractor. Upon receipt of a complaint on a registered family child care provider, a Contractor shall:
      - a. Refer the complainant to the appropriate investigative agency (law enforcement or child protective services), if the issue raised in the complaint is suspected child abuse or neglect. The contractor shall forward a complaint involving law enforcement or child protective services to the DES Child Care Administration for resolution;
      - b. Refer the complainant to DHS and forward an over-ratio referral form to DHS if the complaint alleges that the provider is caring for more children than the law allows; or
      - c. Take a complaint made in reference to a CACFP home provider not regulated by any other agency and forward the complaint to ADE for resolution by its sponsoring agencies.
      - d. Take the complaint if it raises an issue other than those described in subsections (C)(1)(a), (b) or (c).
    2. If the Contractor takes the complaint as under subsection (C)(1)(c) or (d), the Contractor shall obtain and record, on a Department approved form, the following information, if available:
      - a. Provider name and address;
      - b. Summary of the complaint, including date and time of incident;
      - c. Name, address, and phone number of the person making the complaint, unless the complainant indicates that the complainant or someone else may come to substantial harm. The Contractor shall document a complainant's claim that substantial harm may result as a result of disclosure of the complainant's name, as prescribed in A.R.S. § 41-1010; and
      - d. If applicable, witness information, such as name, address, and phone number.
    3. The person recording the information shall sign and date the form.
    4. After redacting personally identifiable information, the Contractor shall send the complaint form to the provider for response within three work days.
    5. The provider shall respond to the complaint by completing the provider response portion of the complaint form within 30 days of the complaint mailing date;
    6. The Contractor shall allow the public to inspect the complaint, and the provider's response, if given, with all personally identifiable information redacted. After the 30-day provider response period has expired, the Contractor shall make a complaint available for public inspection at the Contractor's office or the Contractor may mail a copy of the complaint.

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### **R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements**

- A.** Monitoring and Investigation: Neither the Department nor its Contractors monitor or investigate the activities of a provider,

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-

- 4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### **R6-5-5007. Provider Listing Status**

##### **A. Regulated Providers:**

1. When the Department learns that a regulatory agency has suspended a regulated provider's license, certificate, or alternate approval, the Department shall direct a Contractor to change the provider's listing status from referral listing to information only listing, using the process in R6-5-5009.
2. If a Contractor has changed a provider to information only listing status under subsection (A)(1), the Department shall direct the Contractor to return the provider to referral listing status if the regulatory agency removes the provider's suspension status.
3. The Department shall notify the provider in writing when the Department returns the provider to referral status. The Department shall send the notice within 10 work days of the change in status, and shall include the effective date of the change.

##### **B. Registered Providers:**

1. When the Department receives a complaint or is notified that a registered provider may have failed or may be unable to meet the needs of a family due to one of the following circumstances, the Department shall direct a Contractor to change a registered provider's listing status from referral listing to information listing using the process in R6-5-5009:
  - a. A child has allegedly been abused, neglected, exploited, or abandoned while in the registered provider's care;
  - b. A registered provider has allegedly been involved in activities or circumstances that may threaten the health, safety, or emotional well-being of a child, including, acts of physical violence, domestic disputes, or incidents involving deadly weapons or dangerous or narcotic drugs; or
  - c. As determined by DHS, a registered provider has allegedly violated state law by providing care to more than four children at any one time for compensation.
2. If a Contractor has changed a registered provider to information only listing status, as prescribed in subsection (B)(1), the Department shall direct the Contractor to return the registered provider to referral listing status if one of the following occurs:
  - a. Child Protective Services or a law enforcement agency determines that the allegation cannot be substantiated;
  - b. Child Protective Services or a law enforcement agency determines that the threat to a child has been eliminated; or
  - c. DHS determines that the registered provider may continue child care activities without obtaining a certificate or license.
3. As used in subsection (B)(2), substantiation by a law enforcement agency means that law enforcement has referred a case to a prosecutorial agency with a recommendation to file charges.
4. The Department shall notify the registered provider in writing when the provider is returned to referral status. The Department shall send the notice within 10 work days of the change in status, and shall include the effective date of the change.

#### **Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### **R6-5-5008. Provider Exclusion or Removal**

- A.** The Department may direct a Contractor to exclude or remove a provider from the database according to the process in R6-5-5009, for the following reasons:
1. The provider fails or refuses to provide information as requested by the Department or a Contractor;
  2. A regulatory agency or sponsoring organization verifies that the provider's license, certificate, or alternate approval has been denied, revoked, terminated, or dropped for cause;
  3. The Department learns that information in the written, sworn, and notarized statements submitted by the provider under R6-5-5002(C) is false;
  4. The provider is subject to removal or exclusion for any reason listed in A.R.S. § 41-1967(E); or,
  5. The provider fails to comply with these rules.
- B.** A Contractor may summarily and without notice remove a provider from the CCR&R database for the following reasons:
1. The Contractor is unable to contact the provider because:
    - a. The provider's phone is disconnected;
    - b. The provider is no longer at the last known address and has given no forwarding address; or
    - c. The provider has died; or
  2. The provider requests removal.
- C.** A provider removed under subsection (B) may request reinstatement by calling the Contractor for the provider's SDA and providing current information.
- D.** Upon receipt of a request for reinstatement, the Contractor shall update the information listed in R6-5-5002 and, if applicable, confirm that the provider has submitted information requested by the Department or Contractor.
- E.** The Contractor shall reinstate the provider unless there are grounds for removal under subsections (A)(1) through (5).

#### **Historical Note**

Adopted effective November 19, 1996 (Supp. 96-4). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

#### **R6-5-5009. Administrative Review Process**

- A.** When the Department receives information indicating that the Department may need to change a provider's listing status or remove or exclude a provider, the Department Program Administrator or designee shall review the information and decide whether grounds exist as listed in R6-5-5007 or R6-5-5008(A).
- B.** If the Department decides to change a provider's listing status or to remove or exclude a provider, the Department shall:
1. Notify the Contractor to change the listing status or to remove or exclude the provider; and
  2. Within 10 work days of the effective date of the change of listing status, removal or exclusion, send the provider written notice via certified mail of the action taken.
- C.** The notice shall include the following information:
1. The effective date of the change in listing status or the removal or exclusion;
  2. The reason for the change in listing status or the removal or exclusion;
  3. The statutory provision requiring the provider's change in listing status or the removal or exclusion;

4. An explanation of the provider's right to an administrative review; and,
  5. A statement explaining where the provider may file a written request for an administrative review and the time period for doing so.
- D.** The Department shall mail the notice to the provider's last known address. The mailing date is presumed to be the date appearing on the notice.
- E.** A provider may request an administrative review by filing a written request for review with the Department, within 15 work days after the mailing date of the Department's notice.
- F.** The provider shall mail the written request for administrative review to:  
Department of Economic Security  
Child Care Administration  
Program Administrator  
P.O. Box 6123 S.C. 801A  
Phoenix, Arizona 85005
- G.** In the written request, the provider shall include the reason for requesting an administrative review and any documentation supporting the reinstatement request.
- H.** A request for an administrative review is timely if:
1. The Department receives it within the 15-day appeal period in subsection (E); or
  2. The envelope in which the request was mailed is post-marked or postage-meter marked within the period in subsection (E).
- I.** The Program Administrator or designee shall review the Department's decision and all documentation submitted by the provider.
- J.** The Program Administrator or designee shall notify the provider and the Contractor of the results of the administrative review within 15 work days from the date the Department receives the request for review.
1. The decision shall be in writing and mailed to the provider's last known address. The date on the decision is presumed to be the mailing date.
  2. The decision shall include information about the provider's right to further appeal.
- K.** The provider may appeal the Department's decision under R6-5-5010.

**Historical Note**

Adopted effective November 19, 1996 (Supp. 96-4).  
Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

**R6-5-5010. Administrative Appeal Process**

- A.** A provider may appeal the Department's administrative review decision under 6 A.A.C. 5, Article 75 by filing a request for an appeal with the Department within 15 work days after the mailing date of the Department's administrative review decision described in R6-5-5009(J).
- B.** A provider shall mail the written request for an appeal to:  
Department of Economic Security  
Child Care Administration  
Program Administrator  
P.O. Box 6123 S.C. 801A  
Phoenix, Arizona 85005
- C.** In the written request, the provider shall include the reason for requesting an appeal and any documentation supporting the request.
- D.** The Department's actions in reference to removal or exclusion from the database or changes in listing status are not appealable under this Article if the action is based on:
1. Failure to clear a fingerprint or criminal background check; or

2. Failure to clear a Child Protective Services background check

**E.** A request for an appeal is timely if:

1. The Department receives it within the 15-day appeal period in subsection (A); or
2. The envelope in which the request is mailed is post-marked or postage-meter marked within the 15-day period prescribed in subsection (A).

**Historical Note**

Adopted effective November 19, 1996 (Supp. 96-4).  
Amended effective June 4, 1998 (Supp. 98-2). Amended by exempt rulemaking at 8 A.A.R. 2956, effective July 1, 2002 (Supp. 02-2).

**ARTICLE 51. EXPIRED****R6-5-5101. Expired****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5101 repealed, new Section R6-5-5101 adopted effective September 30, 1977 (Supp. 77-5). Former Section R6-5-5101 repealed, new Section R6-5-5101 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5102. Expired****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5102 repealed, new Section R6-5-5102 adopted effective September 30, 1977 (Supp. 77-5). Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5102 repealed, new Section R6-5-5102 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5103. Expired****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5103 repealed, new Section R6-5-5103 adopted effective September 30, 1977 (Supp. 77-5). Former Section R6-5-5103 repealed, new Section R6-5-5103 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5104. Expired****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5104 repealed, new Section R6-5-5104 adopted effective September 30, 1977 (Supp. 77-5). Amended effective April 25, 1978 (Supp. 78-2). Amended effective March 26, 1979 (Supp. 79-2). Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5104 repealed, new Section R6-5-5104 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5105. Expired****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5105 repealed, new Section R6-5-5105 adopted effective September 30, 1977 (Supp. 77-5). Amended effective April 25, 1978 (Supp. 78-2).

Amended paragraph (3) effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5105 repealed, new Section R6-5-5105 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

#### **R6-5-5106. Expired**

##### **Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5106 repealed, new Section R6-5-5106 adopted effective September 30, 1977 (Supp. 77-5). Former Section R6-5-5106 repealed, new Section R6-5-5106 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

#### **R6-5-5107. Expired**

##### **Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5107 repealed, new Section R6-5-5107 adopted effective September 30, 1977 (Supp. 77-5). Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5107 repealed, new Section R6-5-5107 adopted effective June 17, 1985 (Supp. 85-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

### **ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS**

#### **R6-5-5201. Definitions**

The following definitions apply in this Article:

1. "Abandonment" has the meaning ascribed to "abandoned" in A.R.S. § 8-201 (1).
2. "Abuse" has the meaning ascribed in A.R.S. § 8-201 (2).
3. "Age" means years of a person's lifetime when used in reference to a number, unless the term "months" is used.
4. "Adult" means a person age 18 or older.
5. "Applicant" means a person who submits a written application to the Department to become certified as a child care provider.
6. "Backup provider" means an adult who, or an entity that, provides child care when a provider is not available.
7. "CACFP" means the Child and Adult Care Food Program.
8. "Certificate" means a document the Department issues to a provider as evidence that the provider has met the child care standards of this Article.
9. "Child" means a person younger than age 18.
10. "Child care" means the compensated care, supervision, recreation, socialization, guidance, and protection of a child who is unaccompanied by a parent.
11. "Child care personnel" means all adults residing in a home facility, an in-home provider, and any backup provider.
12. "Child care registration agreement" means a written contract between a provider and the Department; that establishes the rights and duties of the provider and the Department for provision of child care.
13. "Child care specialist" means a Department child care eligibility and/or certification staff person.
14. "CHILDS" means the Children's Information Library and Data Source, which is a comprehensive, automated system to support child welfare policies and procedures, and includes information on investigations, ongoing case management, and payments.
15. "CHILDS Central Registry" means the Child Protective Services Central Registry, a confidential, computerized database within CHILDS, which the Department maintains according to A.R.S. § 8-804.
16. "Child with special needs" means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child who has a physical or mental impairment that substantially limits one or more major life activities; has a record of having a physical or mental impairment that substantially limits one or more of the child's major life activities; or who is regarded as having an impairment, regardless of whether the child has the impairment.
17. "Client" means a person who applies for and meets the eligibility criteria for a child care service program administered by the Department.
18. "Compensation" means something given or received, such as money, goods, or services, as payment for child care services.
19. "Corporal punishment" means any act that is administered as a form of discipline and that either is intended to cause bodily pain, or may result in physical damage or injury.
20. "CPS" means Child Protective Services, a Department administration that operates a program to investigate allegations of child maltreatment and provide protective services.
21. "Department" means the Arizona Department of Economic Security.
22. "Developmentally appropriate" means an action that takes into account:
  - a. A child's age and family background;
  - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
  - c. The individual child's pattern and timing of growth, personality, and learning style.
23. "DHS" means the Arizona Department of Health Services.
24. "Direct supervision" means within sight and sound.
25. "Exploitation" means an act of taking advantage of, or making use of a child selfishly, unethically, or unjustly for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.
26. "Evening care" means child care provided at any time between 6:30 p.m. and midnight.
27. "Heating device" means an instrument designed to produce heat for a room or inside area and includes a non-electric stove, fireplace, freestanding stove, or space heater.
28. "Home facility" means a provider's residence that the Department has certified as a location where child care services may be provided.
29. "Household member" means a person who does not provide child care services and who resides in the home facility of a provider for 21 consecutive days or longer or who resides periodically throughout the year for a total of at least 21 days.
30. "Infant" means:
  - a. A child who is younger than 12 months old; and
  - b. A child who is younger than 18 months old and not walking.

31. "In-home provider" means a provider who cares for a child in the child's home.
32. "Maltreatment" means abuse, neglect, exploitation, or abandonment of a child.
33. "Medication" means any prescribed or over-the-counter drug or medicine.
34. "Mechanical restraint" means a device to restrict a child's movement.
35. "Neglect" has the same meaning ascribed in A.R.S. § 8-201(21).
36. "Night-time care" means child care provided at any time between midnight and 6:00 a.m.
37. "Non-parent relative" means a caretaker relative who exercises responsibility for the day-to day physical care, guidance, and support of a child who physically resides with the relative and who is by affinity, consanguinity, or court decree, a grandparent, great grandparent, sibling of the whole or half-blood, stepbrother, stepsister, aunt, uncle, great aunt, great uncle, or first cousin of the child.
38. "Parent" means the biological or adoptive parent of a child, a court-appointed guardian, or a non-parent relative.
39. "Provider" means an adult who is not the parent or guardian of a child needing care, and to whom the Department has issued a certificate, and includes a backup provider who performs the provider's duties when the provider is unavailable.
40. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement.
41. "Safeguard" means to use reasonable efforts and developmentally appropriate measures to eliminate the risk of harm to a child in care and ensure that a child in care will not be harmed by a particular object, substance, or activity. Safeguarding may include:
  - a. Locking up a particular substance or item;
  - b. Putting a substance or item beyond the reach of a child who is not mobile;
  - c. Erecting a barrier that prevents a child from reaching a particular place, item, or substance;
  - d. Mandating the use of a protective safety device; or
  - e. Providing direct supervision.
42. "Sanitize" means treatment by a heating or chemical process that reduces the bacterial count, including pathogens, to a safe level.
43. "Time out" means removing a child from a situation by directing the child to remain in a specific chair or place identified as the time out place, for no more than one minute for each year of a child's age, but no more than 10 minutes.
44. "Undue hardship" means significant difficulty or substantial expense concerning the operation of a provider's program. In this subsection, "significant" and "substantial" are measured relative to the level of net income the provider earns from child care services.
45. "Unusual incident" means any accident, injury, behavior problem, or other extraordinary situation involving a provider or a child in care, including suspected child maltreatment.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5202. Initial Application for Certification

- A. To become a certified child care provider, an applicant shall comply with all requirements of this Article and other applicable requirements of federal, state, or local law.
- B. An applicant shall be at least age 18.
- C. An applicant shall submit a complete, signed application form to the Department.
- D. An applicant shall designate one or more backup providers from the following list:
  1. An individual who is age 18 or older and who satisfies the requirements for backup providers outlined in this Article;
  2. A DHS-licensed child care center;
  3. A DHS-certified child care group home; or
  4. A DES-certified family child care home.
- E. An applicant shall participate in any orientation and training and shall cooperate in conducting any pre-certification interviews and inspections the Department may require.
- F. An applicant shall give the Department the names of three references who:
  1. Have known the applicant at least one year,
  2. Are unrelated by blood or marriage to the applicant, and
  3. Can furnish information regarding the applicant's character and ability to care for a child.
- G. An applicant and any designated individual backup provider shall furnish a self-statement of physical and mental health on a form provided by the Department.
- H. An applicant and each designated individual backup provider shall have the physical, mental, and emotional health necessary to perform the duties and meet the responsibilities established by this Article. If the Department has questions about the applicant's health that the applicant cannot satisfactorily answer or explain, the applicant, upon request by the Department, shall submit to a physical or psychological examination by a licensed physician, psychologist, or psychiatrist, and shall provide the Department with a professional opinion addressing the Department's questions. The applicant shall bear the cost of any professional examinations that the Department needs to determine whether the individual is qualified.
- I. The Department may require an applicant to furnish at least the following information about the applicant, the applicant's spouse, members of the applicant's household, children residing outside of the applicant's home, and the individual backup provider:
  1. Name;
  2. Current address;
  3. Telephone number;
  4. Date of birth;
  5. Social security number;
  6. Maiden name, aliases, and nicknames;
  7. Relationship to the applicant or backup provider;
  8. Marital status and marital history;
  9. Educational background;
  10. Ethnicity;
  11. Gender;
  12. Birthplace;
  13. Physical characteristics; and
  14. Citizenship status.
- J. Child care personnel shall submit the notarized criminal history certification form required by A.R.S. § 41-1964, and disclose whether they have committed any acts of child maltreatment or have been the subject of a Child Protective Service investigation.
- K. On a Department form, an applicant, all adult household members, and all individual backup providers shall provide employment histories for the five-year period immediately

preceding the application date, beginning with the individual's present or most recent job.

- L.** An applicant shall furnish proof that the applicant, the individual backup provider, and members of the applicant's household who are age 13 or younger are immune from measles, rubella, diphtheria, tetanus, pertusis, polio, and any other diseases for which routine immunizations are readily and safely available.
  - 1. The Department may waive the requirements of this subsection for a household member if the applicant will be certified as an in-home provider only and submits an affidavit attesting that household members will not be present when child care services are provided.
  - 2. The Department shall waive the requirements of this subsection if the applicant:
    - a. Submits an affidavit stating that household members are being raised in a religion whose teachings oppose immunization; and
    - b. Affirms, in writing, that families will be notified of the religious exemption before child care services are provided.
- M.** An applicant shall submit evidence of current freedom from pulmonary tuberculosis for the applicant, all household members, and all individual backup providers. If the application is approved, this evidence shall be submitted each succeeding calendar year.
  - 1. Evidence required under this subsection is limited to:
    - a. A report of a negative Mantoux skin test performed within three months of the date or anniversary date of initial certification.
    - b. A physician's written statement based on an examination performed within three months of the date or anniversary date of initial certification.
  - 2. The Department shall waive the requirements of this subsection for household members if the applicant will be certified as an in-home provider only and submits an affidavit that household members will not be present when child care services are provided.
- N.** An applicant shall provide a statement of services on a Department form. The statement shall describe:
  - 1. The home at which services will be provided, location, and hours of operation;
  - 2. The applicant's daily rates and fees;
  - 3. The ages of children the applicant will accept;
  - 4. The equipment, materials, daily activities, and play areas available to children in care;
  - 5. Any special child care skills, knowledge, or training the applicant has; and
  - 6. The behavior, guidance, and discipline methods the applicant uses.
- O.** During an interview with the child care specialist, an applicant shall complete a Department questionnaire describing:
  - 1. The applicant's child rearing philosophy;
  - 2. The home environment, including intra-family relationships and attitudes toward child care;
  - 3. The parenting and discipline methods employed by the applicant and the applicant's parents; and
  - 4. The applicant's child care training and experience.
- P.** Upon Department request, an applicant, all members of the applicant's household, and all individual backup providers shall comply with any additional requirements and requests for interviews, inspections, or information necessary to determine the applicant's fitness to serve as a certified child care provider.
- Q.** A complete application package consists of an applicant's completed application form and evidence that the applicant, all

members of the applicant's household, and all individual backup providers have met all requirements and submitted all information and documentation listed in this Section.

- R.** The Department shall send an applicant a notice of administrative completeness or deficiency, as described in A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package. The Department shall send the notice after receiving the application and before expiration of the administrative review time-frame described in R6-5-5204. If the applicant does not supply the missing information listed in the notice, the Department may close the file.
- S.** An applicant whose file is closed may reapply for certification.
- T.** After an applicant submits a complete application for initial certification, the Department shall inspect the applicant's home to determine whether the home meets the regulations of this Article.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5203. Initial Certification: The Home Facility**

A provider's home facility shall meet the requirements of this Section.

- 1. A provider shall maintain the indoor and outdoor premises of the home facility in a safe and sanitary condition, free from hazards and vermin, and in good repair. A mobile home shall have skirting to ensure that a child in care cannot go beneath the mobile home.
- 2. Any area to be occupied by a child in care shall have heat, light, ventilation, and screening. The provider shall maintain the home facility between 68° and 85° F.
- 3. A provider shall vent and safeguard all heating devices to protect each child from burns and harmful fumes.
- 4. A provider shall safeguard all potentially dangerous objects from children, including:
  - a. Household and automotive tools;
  - b. Sharp objects, such as knives, glass objects, and pieces of metal;
  - c. Fireplace tools, butane lighters and igniters, and matches;
  - d. Machinery;
  - e. Electrical boxes;
  - f. Electrical outlets;
  - g. Electrical wires; and
  - h. Chemicals, cleaners, and toxic substances.
- 5. A provider shall store firearms and ammunition separately from one another, under lock and key or combination lock.
- 6. A home facility shall have adequate space and equipment to accommodate each child in care, and other household members who are in the home facility at the same time as children in care. In this subsection, "adequate" means sufficient space and equipment to:
  - a. Permit all persons in the dwelling to have safe freedom of movement;
  - b. Permit children in care to be seated together for meals and snacks; and
  - c. Permit all children in care to be engaged in developmentally appropriate activities at the same time and in a room where the provider can keep all children within sight.
- 7. A provider shall keep outside play areas clean and safe and shall fence the play area if there are conditions that

may pose a danger to any child playing outside. The fence shall be at least 4 feet high and free of hazards, including splinters and protruding nails or wires. The fence shall have only self-closing, self-latching, lockable gates.

8. A home facility shall have the following equipment:
  - a. A charged, readily accessible, operable, multi-purpose (ABC class) fire extinguisher that the applicant knows how to operate;
  - b. At least one UL-approved, working smoke detector, properly mounted on each level of the dwelling;
  - c. At least two usable outdoor exits;
  - d. A posted written plan or diagram for emergency evacuation;
  - e. A working telephone or other two-way communication device acceptable to the Department; and
  - f. An easily accessible life-saving device if the home facility has a pool or other body of water more than 12 inches deep. A “life-saving device” means a ring buoy with at least 25 feet of 1/2-inch rope attached or a shepherd’s crook.
9. If a home facility has a swimming pool or other body of water more than 12 inches deep, the pool or body of water shall be enclosed by a permanent fence that separates it from all other outdoor areas and from doors and windows into the home facility. The fence shall be at least 5 feet high and shall have only self-closing, self-latching, lockable gates. Open spaces between upright or parallel posts and poles on fences and gates shall be no more than 4 inches apart. When the pool or body of water is not in use, the provider shall lock the gates.
10. A provider shall enclose spas and hot tubs with fencing as described in subsection (9), or with a hard, locked cover that prevents access and can support at least 100 pounds.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective March 5, 1979 (Supp. 79-2). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5204. Initial Certification: Department Responsibilities**

- A. Before issuing a certificate, the Department shall:
  1. Conduct at least one face-to-face interview with an applicant;
  2. Contact any other person necessary to determine an applicant’s fitness to be a certified provider;
  3. Ensure that an applicant and all individual backup providers have complied with and satisfy the requirements of R6-5-5202;
  4. Inspect the home where an applicant will provide child care, unless it is the child’s own home, and ensure that it meets the requirements of R6-5-5203;
  5. Conduct a CHILDS Central Registry check for:
    - a. An applicant;
    - b. The applicant’s household members;
    - c. The applicant’s emancipated children who live outside the applicant’s home, if any; and
    - d. Any individual backup provider.
  6. Find that an applicant has the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article.
- B. The Department shall objectively determine whether to certify an applicant based on the applicant’s entire application package, and the information the Department has acquired during the course of the application process.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5205. Certification Time-frames**

For the purpose of A.R.S. § 41-1073, the Department established the following certification time-frames:

1. Administrative completeness review time-frame: 60 days,
2. Substantive review time-frame: 30 days, and
3. Overall time-frame: 90 days.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5205 renumbered to R6-5-5206 and new Section adopted by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5206. Certificates: Issuance; Non-transferability**

- A. A certificate is valid for three years from the date of issuance. The Department may revoke a certificate before expiration as provided in this Article and by law.
- B. A certificate is not transferable and is valid only for the provider and location identified on the certificate.
- C. A provider shall post the certificate in a conspicuous location in the home facility.
- D. A certificate is the property of the state of Arizona. Upon revocation or voluntary closure, a provider shall surrender the certificate issued to the provider to the Department within seven days.
- E. The Department shall designate on the certificate issued to the provider the total number of children to be allowed in child care at any one time. The total shall not exceed the limits set in R6-5-5220.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective February 24, 1977 (Supp. 77-1). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5206 renumbered to R6-5-5207; new Section R6-5-5206 renumbered from R6-5-5205 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5207. Maintenance of Certification: General Requirements; Training**

- A. Child care personnel and all individual backup providers shall be fingerprinted and pay all required fingerprint fees within the time prescribed in A.R.S. § 41-1964.
- B. A provider and all individual backup providers shall maintain the physical, mental, and emotional health necessary to fulfill all legal requirements for child care providers.
- C. No later than 60 days after the date of provider certification, a provider and individual backup providers shall furnish the Department with proof of acceptable first aid training and certification in infant/child cardiopulmonary resuscitation (“CPR”). As used in this Section, “acceptable training” means a course approved by the American Red Cross or the American Heart Association. The Department may extend the time for completing this requirement and children may remain in care during an extension, if:
  1. The class was not available within the 60-day time period; or
  2. The provider, individual backup provider, or a dependent was ill, and the provider or backup provider was unable to attend a scheduled class due to the illness.

- D. A provider and individual backup providers shall maintain current training and certification in first aid and infant/child CPR through acceptable training courses.
- E. A certified provider shall attend at least six hours of training each calendar year in any of the following subjects:
  1. The Department's child care program, policies, and procedures;
  2. Child health and safety, including recognition, control, and prevention of illness and disease;
  3. Child growth and development;
  4. Child abuse prevention, detection, and reporting;
  5. Positive guidance and discipline;
  6. Child nutrition;
  7. Communication with families; family involvement;
  8. Developmentally appropriate practices; and
  9. Other similar subjects designed to improve the provider's ability to provide child care.
- F. A provider shall maintain a record of all training, and annually furnish the Department with proof of attendance.
- G. A provider shall maintain a safe and clean home facility, including furnishings, equipment, supplies, materials, utensils, toys, and grounds, that meets the standards in this Article.
- H. At all times, a provider shall allow the Department access to all parts of the home facility. The Department shall make at least two onsite visits each year to each home facility and in-home provider. At least one visit shall be unannounced.
- I. A provider shall allow a parent or a designated representative access to the home facility at all times when the parent's child is present, and shall give parents and designated representatives written notice explaining this right.
- J. A provider shall directly supervise a visitor to the home facility while the visitor is in an area with a child in care.
- K. A provider shall not expose a child in care to tobacco products or smoke.
- L. A provider shall not care for a child while under the influence of alcoholic beverages, medication, or any other substance, that may or does impair the provider's ability to care for a child.
- M. A provider shall not consume alcoholic beverages while caring for a child.
- N. A provider shall not refuse to provide care to any child on the basis of color, sex, religion, disability, or national origin.
- O. If a provider is notified that a child or household member has a communicable disease, the provider shall ensure that a child who lacks written evidence of immunity to the communicable disease is not permitted to be present in the home facility until:
  1. A parent provides written evidence of the child's immunity to the disease; or
  2. A local health department notifies the provider that the child may return to the home facility
- B. A provider shall demonstrate the continued physical, mental, and emotional health necessary to perform the duties and fulfill the responsibilities in this Article.
- C. Before recertification, a provider and designated individual backup provider shall furnish a self statement of physical and mental health and freedom from communicable diseases on a form furnished by the Department.
- D. The Department shall renew a certificate only after a provider demonstrates the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article.
- E. Unless the Department, in its sole discretion, accepts a provider's written assurance of future compliance with the requirements of this subsection, the Department shall deny recertification or take other enforcement action when the provider does not accept Department-referred children on three separate occasions unless the refusal is for:
  1. Illness, accident, or incapacity of the provider;
  2. Illness, accident, or incapacity of any household member, if the existing condition will pose a risk to children in care, or limit the provider's ability to provide child care in accordance with the law;
  3. The provider is not equipped or trained to provide care to the referred child, and the provider cannot acquire the equipment or training without undue hardship;
  4. The provider has no available slots;
  5. The situations listed in R6-5-5222 and a backup provider is unavailable;
  6. A child has not been immunized, and the parent or guardian is unwilling to obtain appropriate immunization, in accordance with R6-5-5219(F); or
  7. The home facility is in temporary disrepair or under construction.
- F. The Department may obtain any supplemental information needed to determine continuing fitness to serve as a certified child care provider.
- G. A provider, all household members, and an individual backup provider shall cooperate with the Department in providing all information required for recertification.
- H. The Department shall determine whether to recertify a provider based on the provider's original application package, all previous monitoring reports, and all additional information the Department receives during the recertification process.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5208 renumbered to R6-5-5209; new Section R6-5-5208 renumbered from R6-5-5207 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5209. Program and Equipment

#### R6-5-5208. Recertification Requirements

- A. Before recertifying a provider, the Department shall interview the provider at the location where child care will be provided. The Department Representative may interview an in-home provider at the in-home provider's residence. The interview shall include a discussion and review of the provider's experiences in the provision of child care services during the current certification period.
- B. A provider shall incorporate into the program each child's daily routine activities, such as diapering, toileting, eating,



dressing, resting, and sleeping, in accordance with the developmental needs of each child.

- C. A provider shall develop a flexible, developmentally appropriate program that the provider can adjust to accommodate unanticipated events such as the illness of a child or changes in the weather.
- D. A provider shall have play equipment and materials sufficient to meet the program requirements described in subsections (A) through (C), and to ensure that all children in care can be occupied in developmentally appropriate play at the same time.
- E. A provider who cares for a child who is younger than age 2 shall have a variety of developmentally appropriate play equipment and supplies available for the child, such as:
  1. Touch boards;
  2. Soft puppets;
  3. Soft or plastic blocks;
  4. Simple musical instruments;
  5. Push-pull toys for beginning walkers;
  6. Picture and texture books;
  7. Developmentally appropriate art materials, including crayons, paints, finger paints, watercolors, and paper;
  8. Simple, 2-3 piece puzzles and peg boards; and
  9. Large beads to string or snap.
- F. A provider who cares for a child age 2 or older shall have a variety of developmentally appropriate play equipment and supplies available for the child, such as:
  1. Art supplies;
  2. Blocks and block accessories;
  3. Books and posters;
  4. Dramatic play areas with toys and dress-up clothes;
  5. Large muscle equipment;
  6. Manipulative toys;
  7. Science materials; and
  8. Musical instruments.
- G. A provider shall have a bed, cot, mat, crib, or playpen for each child in care who requires a daily nap or rest period. Each infant in care shall have a safe crib, port-a crib, bassinet, or playpen.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5209 renumbered to R6-5-5210; new Section R6-5-5209 renumbered from R6-5-5208 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5210. Safety; Supervision

- A. When a provider is unavailable to care for a child for a reason described in R6-5-5222(B), the provider may use only the backup provider designated under R6-5-5202 or R6-5-5222(E).
- B. A provider shall give parents and guardians written notice of the provider's backup care plan.
- C. A provider shall not engage in activities that interfere with the ability to supervise and care for children, including other employment, and volunteer or recreational activities. An in-home provider shall not perform housekeeping duties unrelated to the care of the child.
- D. A provider shall directly supervise each child who is awake.
- E. A provider shall have unobstructed access to and shall be able to hear each child who is sleeping.
- F. A provider shall not permit a child in care to use a spa or hot tub.
- G. A provider shall have written permission from a parent or guardian before allowing a child to engage in water play. In

this subsection, "water play" means any activity in which water is likely to get into a child's ears.

- H. A provider shall directly supervise any child who is in a pool area.
- I. A provider shall accompany a child who is using a public or semi-public swimming place.
- J. A provider shall have written permission from a child's parent or designated representative to bathe or shower the child, or to allow the child to bathe or shower independently.
- K. A provider shall not permit a child younger than age 6 to bathe or shower unsupervised.
- L. A provider shall report suspected child abuse or neglect to CPS or the local law enforcement department as required by A.R.S. § 13-3620.
- M. A provider shall use developmentally appropriate precautions to separate a child in care from hazardous areas, including locked doors and safe portable folding gates.
- N. A provider shall release a child only to the child's parent or to an adult who has been designated in writing by the parent.
- O. A provider shall not allow a person addicted to or under the influence of illegal drugs or alcohol in the home facility while children in care are present.
- P. A provider shall not permit a person who is abusive to children, or who uses unacceptable disciplinary methods as described in R6-5-5212, into the home facility when children in care are present.

#### Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective March 5, 1979 (Supp. 79-2). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5210 renumbered to R6-5-5211; new Section R6-5-5210 renumbered from R6-5-5209 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5211. Sanitation

- A. A provider and each child in care shall wash their hands with soap and running water after playing with animals or using the toilet, and before and after handling, serving, or eating food. If a child cannot reach a sink with running water, due to the child's age or some limiting condition, the provider shall clean that child's hands with an individual, clean, washcloth.
- B. A provider shall wash, in hot soapy water, and sanitize, all utensils used for eating, drinking, and food preparation.
- C. A provider shall have a garbage can with a close-fitting lid.
- D. A provider shall dispose of garbage in the home facility at least once a day.
- E. A provider shall empty and sanitize wading pools measuring 12 inches deep or less, after each use.
- F. A provider shall maintain, in a sanitary condition, a swimming pool or other area or container, which is more than 12 inches deep and used for water play.
- G. A provider shall frequently check the diaper of each child in care and shall immediately change a soiled diaper.
- H. A provider shall have sanitary arrangements for diaper changing and disposal of soiled diapers, including the following:
  1. The diaper changing area shall not be in an area where food is prepared or consumed;
  2. The diapering surface shall be cleaned, sanitized, and dried after each diaper change;
  3. Following bulk stool disposal into a toilet, soiled cloth diapers shall not be rinsed, but shall be bagged in plastic, individually labeled with child's name, stored in a covered container out of reach of children, and returned to the child's parent each day; and

4. Soiled disposable diapers shall be discarded in a tightly covered, lined container out of reach of children.
- I. Before and after each diaper change, a provider shall wash hands with soap and running water in a sink not used for food preparation.
- J. A provider shall sanitize a bathtub before bathing each child in care.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5211 renumbered to R6-5-5212; new Section R6-5-5211 renumbered from R6-5-5210 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

**R6-5-5212. Discipline**

- A. A certified provider and all individual backup providers shall sign a written agreement to abide by the Department's policy on developmentally appropriate discipline.
- B. Only a provider may discipline a child in care;
- C. A provider may physically restrain a child whose behavior is uncontrolled, only when the physical restraint:
  1. Is necessary to prevent harm to the child or others;
  2. Occurs simultaneously with the uncontrolled behavior;
  3. Does not impair the child's breathing; and
  4. Cannot harm the child.

A provider shall use the minimum amount of restraint necessary to bring the child's behavior under control.
- D. A provider shall not use the following disciplinary measures:
  1. Corporal punishment, including shaking, biting, hitting, or putting anything in a child's mouth;
  2. Placing a child in isolation or in a closet, laundry room, garage, shed, basement, or attic;
  3. Locking a child out of the home facility;
  4. Placing a child in any area where the provider cannot directly supervise the child;
  5. Methods detrimental to the health or emotional needs of a child;
  6. Administering medications;
  7. Mechanical restraints of any kind;
  8. Techniques intended to humiliate or frighten a child;
  9. Discipline associated with eating, sleeping, or toileting; or
  10. Abusive or profane language.
- E. As a disciplinary measure, a provider may place a child in time out. During the time out period, the provider shall keep the child in full view. Time out shall not be used for children less than age 3.
- F. A provider shall maintain consistent, reasonable rules that define acceptable behavior for a child in care.
- G. A provider shall use discipline only to teach acceptable behavior and to promote self-discipline, not for punishment or retribution.

**Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5212 renumbered to R6-5-5213; new Section R6-5-5212 renumbered from R6-5-5211 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

**R6-5-5213. Evening And Nighttime Care**

- A. A provider who offers evening or nighttime care shall remain awake until each child in care is asleep.
- B. A provider who offers nighttime care shall have a safe and sturdy crib for each infant, and a safe and sturdy bed or cot with mattress for each child. Crib bars or slats shall be no more

than 2 3/8 inches apart, and the crib mattress shall fit snugly into the crib frame so that no space remains between the mattress and frame.

- C. A provider may allow siblings to share a bed only if the provider has received written parental permission.

**Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5213 renumbered to R6-5-5214; new Section R6-5-5213 renumbered from R6-5-5212 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

**R6-5-5214. Children Younger than Age 2**

A provider who cares for a child younger than age 2 shall comply with the following requirements:

1. A provider shall frequently hold a child and give each infant and toddler physical contact and attention throughout the day.
2. A provider shall respond promptly to a child's distress signals and need for comfort.
3. A provider shall get written permission from a parent or guardian to give a child a bedtime or nap-time bottle. If the provider receives permission, the provider shall use only water in the bottles, unless otherwise directed by the child's physician.
4. A provider shall not confine a child in a crib, high chair, swing, or playpen, for more than one consecutive waking hour.
5. A provider shall not feed cereal by bottle, except with the written instruction of a physician.
6. A provider shall hold an infant younger than age 1 for any bottle feeding, and shall not prop bottles with a child in care.

**Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5214 renumbered to R6-5-5215; new Section R6-5-5214 renumbered from R6-5-5213 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

**R6-5-5215. Children with Special Needs**

- A. When enrolling a child with special needs, a provider shall comply with the requirements of this Section:
  1. A provider shall consult with parents to establish a mutually agreed upon plan regarding services for a child with special needs;
  2. A provider shall have the physical ability and appropriate training to provide the care required by a child with special needs;
  3. A provider shall use best efforts to integrate a child with special needs into the daily activities of the home facility in a manner that is the least restrictive, and that meets the child's individual needs;
  4. If a provider regularly cares for a child with special needs older than age 3 who requires diapering, the home facility shall have a diaper changing area that permits the child to have privacy. Proper sanitation shall be maintained as described in R6-5-5211.
- B. A provider shall make reasonable accommodations in the home facility, equipment, and materials for a child with special needs.

**Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5215 renumbered to R6-5-5216; new Section R6-5-5215 renumbered from R6-5-5214 and amended by final rulemaking at 5 A.A.R. 1983, effective

May 20, 1999 (Supp. 99-2).

#### **R6-5-5216. Transportation**

- A.** A provider shall obtain prior written permission from a child's parent before transporting a child in a privately owned vehicle or on public transportation.
- B.** A provider shall ensure that a child in care is transported in a private vehicle by a person who has:
  - 1. A valid Arizona driver's license;
  - 2. Automobile insurance that meets the financial responsibility requirement of Arizona law; and
  - 3. No convictions for driving while intoxicated within three years before the date of transportation.
- C.** A provider shall transport a child only in a mechanically safe vehicle. "Mechanically safe" means a vehicle with:
  - 1. Functioning brakes, signal lights, and headlights;
  - 2. Tires with tread; and
  - 3. Structural integrity.
- D.** A provider shall not transport a child on a motorcycle or in a vehicle that is not constructed for the purpose of transporting people, such as a truck bed, camper, or any trailered attachment to a motor vehicle.
- E.** A provider shall transport a child in a separate car seat, seat belt, or child-restraint device in compliance with A.R.S. § 28-907.
- F.** A provider shall never leave a child unattended in a vehicle.
- G.** A provider shall maintain first-aid supplies in a privately owned vehicle used to transport children in care.
- H.** A provider shall carry a child's emergency-information card when transporting a child in care.
- I.** A provider shall sign a form that states that the provider will abide by R6-5-5216.

#### **Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5216 renumbered to R6-5-5217; new Section R6-5-5216 renumbered from R6-5-5215 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5217. Meals and Nutrition**

- A.** A provider shall serve a child in care wholesome and nutritious foods and beverages. In this Section, "wholesome and nutritious" means foods and beverages consistent with the requirements of 7 CFR 226.20 (January 1, 1998), which is incorporated by reference and available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona 85007 and in the office of the Secretary of State at 1700 West Washington, Phoenix, Arizona. The incorporated material contains no later amendments or editions.
- B.** A provider shall supplement meals and snacks supplied by a parent when the supplied food does not provide a child with a wholesome and nutritious diet.
- C.** A provider shall make available to a child in care meals and snacks that satisfy the child's appetite and dietary needs.
- D.** A provider shall consult with a parent to identify, in writing, any special dietary needs or instructions for a child in care.
- E.** A provider shall give a child any necessary assistance in feeding and shall teach self-feeding skills, but shall not force a child to eat.
- F.** A provider shall monitor all perishable foods, including infant formulas and sack lunches. The provider shall ensure that food is individually labeled with a child's name, dated, covered, and properly stored to prevent spoilage at temperatures of 45°F or less.

#### **Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former

Section R6-5-5217 renumbered to R6-5-5218; new Section R6-5-5217 renumbered from R6-5-5216 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5218. Health Care; Medications**

- A.** When a provider enrolls a child for care, the provider shall make written arrangements with the child's parent for emergency medical care of the child.
- B.** If a child becomes ill while in care, a provider shall:
  - 1. Make the child comfortable and keep the child in full view; and
  - 2. Notify the parent or other designated person that the child is ill and must be immediately removed from care.
- C.** A provider shall notify the parent of other children in care when a child in care contracts an infectious illness.
- D.** A provider shall not provide care while knowingly infected with or presenting symptoms of an infectious disease.
- E.** If a child exhibits symptoms of an infectious disease, the child may return to care when fever free and symptom free, or with written permission from the child's medical practitioner that returning will not endanger the health of the child or other children in care.
- F.** A provider shall not admit a child in need of professional medical attention to the home facility and shall direct the parent to obtain medical attention for the child.
- G.** Only a provider shall administer medication with signed written instructions for administering the medication from the child's parent.
- H.** A provider shall not administer:
  - 1. Medication that is date expired or in something other than its original container; or
  - 2. Prescription medication that does not bear the date of issue, the child's name, the amount and frequency of dosage, and the doctor's name.
- I.** A provider shall maintain a written log of all medications administered. The log shall include:
  - 1. The name of the child receiving the medication;
  - 2. The name of the medication;
  - 3. The date and time of administration; and
  - 4. The dosage administered.

A provider shall use a sanitary medication measure for accurate dosage.
- J.** A provider shall keep all medication in a locked storage container, and refrigerate if necessary.
- K.** A provider shall have first-aid supplies available at the home facility, which shall be administered only by the provider.
- L.** A provider is responsible for obtaining only emergency medical treatment for a child in care.

#### **Historical Note**

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5218 renumbered to R6-5-5219; new Section R6-5-5218 renumbered from R6-5-5217 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### **R6-5-5219. Recordkeeping; Unusual incidents; Immunizations**

- A.** A provider shall maintain a daily attendance log on a Department-approved form and shall require that each child be signed in and out on the log by the parent or other individual designated in writing by the parent.
- B.** On a form approved by the Department, a provider shall promptly log all accidents, injuries, behavior problems, or other unusual incidents at the home facility, including any suspected child abuse or neglect.

- C. A provider shall immediately report all unusual incidents to a parent or guardian of the child involved and shall report the incidents to the Department within 24 hours of the time of occurrence.
- D. A provider shall maintain records in accordance with the requirements of the provider's child care registration agreement. The provider shall make the following records readily available for inspection by the Department and shall keep them separate from household and other personal records:
  1. Information listed in subsection (E);
  2. Immunization records identified in subsection (F) and R6-5-5202 (L);
  3. Documentary evidence of freedom from communicable tuberculosis as required by R6-5-5202 (M);
  4. The provider's certification, re-certification, and monitoring records;
  5. Health records of child care personnel;
  6. The provider's training records;
  7. Unusual incident reports; and
  8. Daily logs of attendance, accidents, injuries, medications administered, behavior problems, or other unusual incidents.
- E. A provider shall maintain at least the following information for each child in care:
  1. The child's name, home address, telephone number, gender, and date of birth;
  2. The name, home and business addresses, and telephone numbers of the child's parent;
  3. The name, address and telephone number of the child's physician or health care provider and hospital;
  4. Authorization and instructions for emergency medical care when the parent cannot be located; and
  5. Written authorization to release a child to any individual other than the parent and the name, home and work addresses, and telephone numbers of that individual.
- F. A provider shall maintain an immunization record or exemption affidavit for each child in care.
  1. Documentation required under this subsection is limited to:
    - a. An immunization record prepared by the child's health care provider stating that child has received current, age-appropriate immunizations specified in R9-6-701, including Immunizations for Diphtheria, homophiles influenza type b, Hepatitis B, Measles, Mumps, Pertusis, Poliomyelitis, Rubella, and Tetanus;
    - b. An affidavit signed by the child's health care provider stating that the child has a medical condition that causes the required immunizations to endanger the child's health; or
    - c. An affidavit signed by the child's parent stating that the child is being raised in a religion whose teachings oppose immunization.
  2. If a child has received all current immunizations but requires further inoculations to be fully immunized, the provider shall require the parent to verify that the parent will have the child complete all immunizations in accordance with the DHS recommended schedule identified in R9-6-701. The provider shall:
    - a. Require the parent to produce documented records from the child's health care provider of the immunizations as they are completed; and
    - b. Maintain the records as required by subsection (F)(1).
  3. The provider shall not permit a child in care to remain enrolled for more than 15 days if the parent does not pro-

vide proof of current, age-appropriate immunizations, a statement of timely completion of further inoculations, or exemption from immunization.

- G. Children exempted from immunizations for religious or medical reasons shall be excluded from the home facility if there is an outbreak of an immunizable disease at the home facility.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5219 renumbered to R6-5-52020; new Section R6-5-5219 renumbered from R6-5-5218 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5220. Provider/Child Ratios

- A. The Department may certify a provider in a home facility to care for a maximum of four children at a time, from birth through age 12, for compensation. A provider in a home facility may care for a maximum of six children at a time, from birth through age 12, or a child age 13 or older who is a child with special needs, when all of the following conditions are met:
  1. No more than four children in care are for compensation; and
  2. No more than two of the children in care are younger than age 1, unless a sibling group.
- B. The Department may certify an in-home provider to provide the following care:
  1. An in-home provider may care for a sibling group of no more than six children.
  2. An in-home provider shall care only for the children who live in that home.
  3. An in-home provider may bring the in-home provider's own children to the in-home location with the written permission of the client, and so long as the total number of children at the in-home location does not exceed six children.
- C. The Department may further limit the ratios allowed in subsections (A) and (B) to protect the well-being of children in care. The Department may impose additional restrictions when:
  1. There are more than two children residing in the home facility who are counted in the ratio;
  2. The Department determines that the home facility and the furnishings are inadequate to accommodate four children at a time for compensation, as provided in Section R6-5-5203(6);
  3. The Department has determined that a provider is physically unable to care for four children at a time; for compensation or
  4. A provider requests certification for fewer than four children at a time for compensation.
- D. For the sole purpose of establishing and monitoring ratios, the Department shall not count any child who is age 13 or older, except as provided in subsection (A) for a child with special needs.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5220 renumbered to R6-5-5221; new Section R6-5-5220 renumbered from R6-5-5219 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5221. Change Reporting Requirements

At least 15 days before the effective date of any scheduled change, or within 24 hours after an unscheduled change, which significantly affects the provision of child care services, a provider shall furnish

the Department with written notice of the change. Significant changes include, but are not limited to:

1. Home remodeling;
2. Home repair;
3. Pool installation;
4. Relocating to a new residence;
5. Change in household composition;
6. Telephone number change;
7. Change of backup provider;
8. Voluntarily relinquishing the certificate; and
9. Any other change in the home facility or the provider's personal circumstances that affect the provider's ability to provide stable child care services.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5221 renumbered to R6-5-5222; new Section R6-5-5221 renumbered from R6-5-5220 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5222. Use of A Backup Provider

- A. A provider shall maintain a backup provider, and shall keep clients and the Department apprised of the backup provider's identity and location.
- B. A provider may use a backup provider only in the following circumstances:
  1. When the provider is ill;
  2. When the provider is attending to an emergency related to the provision of child care;
  3. When the provider has an emergency involving the provider or the provider's dependent family members;
  4. When the provider needs to attend a non-emergency appointment for the provider or the provider's dependent family members, and the provider cannot schedule the appointment outside of normal child care hours;
  5. When the provider is attending classes to meet training requirements listed in this Article; or
  6. When the provider is taking a vacation.
- C. At the time of enrollment of a child in care, a provider shall advise the parent of the possible use of a backup provider.
- D. A provider shall notify the Department within 24 hours of the onset of the use of a backup provider.
- E. When a provider designates a new backup provider, the provider shall ensure that the backup provider meets the requirements for backup providers in R6-5-5202.
- F. A provider shall execute a backup provider agreement form furnished by the Department, which identifies the backup provider and contains assurances that the backup provider will be used in accordance with the requirement of this Section.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5222 renumbered to R6-5-5223; new Section R6-5-5222 renumbered from R6-5-5221 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5223. Claims For Payment

- A. A provider shall submit claims for payment in the manner prescribed in the child care registration agreement with the Department.
- B. A provider shall make all financial arrangements with a backup provider. The Department shall not make direct payments to the backup provider.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5223 renumbered to R6-5-5224; new Sec-

tion R6-5-5223 renumbered from R6-5-5222 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5224. Complaints; Investigations

- A. Any person may register, with the Department, a written or verbal complaint about a provider or the operation of a home facility. Upon receipt of a complaint, or in response to the observations of Department staff, the Department shall investigate the allegations made and any matters related to certification and compliance with the child care registration agreement.
- B. A provider who is the subject of a complaint shall cooperate with the Department in conducting an investigation. The provider shall allow a Department representative to inspect the home facility and all records, and to interview any child care personnel, or household member.
- C. The Department shall maintain a file on all complaints against a provider and shall make information on valid complaints available to parents and to the general public upon request and as permitted by law.
- D. Following an investigation, the Department shall take appropriate administrative action as described in this Article.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5224 renumbered to R6-5-5225; new Section R6-5-5224 renumbered from R6-5-5223 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5225. Probation

- A. The Department may place a provider on probation when a Department representative observes a problem or the Department receives and validates a complaint in an area of noncompliance that does not endanger a child in care.
- B. The Department shall set a term of probation that does not exceed 30 days.
- C. The Department may suspend a provider's child care certificate if the same infraction that resulted in probation is repeated during a provider's current certification period and the Department determines that the provider has not demonstrated either the intent or ability to comply with the requirements of this Article.
- D. The Department shall not authorize any new child for payment to a provider who is on probation. Children already in that provider's care may remain authorized.
- E. Probationary status is not appealable.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5225 renumbered to R6-5-5226; new Section R6-5-5225 renumbered from R6-5-5224 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5226. Certification, Denial, Suspension, and Revocation

- A. The Department may deny, suspend, or revoke certification when:
  1. An applicant or provider violates or fails to comply with any statute or rule applicable to the provision of Child Care Services.
  2. An applicant or provider has a certificate or license to operate a child care home or facility denied, revoked, or suspended in any state or jurisdiction.
  3. An applicant or provider fails to disclose requested information or provides false or misleading information to the Department.

4. A provider's contract with the Department to furnish child care services expires or is terminated.
  5. Child care personnel fail or refuse to comply with or meet the requirements of A.R.S. § 41-1964.
  6. A provider fails or refuses to correct or repeats a violation that resulted in probation or suspension.
  7. The Department, through its CPS hotline, receives a report of alleged child maltreatment by an applicant, provider, or household member who is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative hearing.
  8. An applicant or provider fails or refuses to cooperate with the Department in providing information required by these rules or any information necessary to determine compliance with these rules.
  9. An applicant, provider, or household member engages in any activity or circumstance that may threaten or adversely affect the health, safety, or welfare of children, including inadequate supervision or failure to protect from actual or potential harm.
  10. An applicant or provider is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children.
  11. The Department, through its CPS hotline, receives a report of alleged child maltreatment in a home facility that is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative proceeding.
  12. An applicant, provider, or household member is the subject of a substantiated or undetermined report of child maltreatment in any state or jurisdiction. Substantiated child maltreatment includes, but is not limited to, a probable cause finding by CPS or a law enforcement agency.
  13. CPS or a law enforcement agency substantiates a report of child maltreatment in a home facility.
- B.** In determining whether to take disciplinary action against a provider, or to grant or renew a certificate, the Department may evaluate the provider's history from other certification periods, both in Arizona and in other jurisdictions, and shall consider multiple violations of statutes or rules applicable to the provision of child care services as evidence that the applicant or provider is unable or unwilling to meet the needs of children.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5226 repealed; new Section renumbered from R6-5-5225 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5227. Adverse Action; Notice Effective Date

- A.** When the Department denies, suspends, or revokes certification, it shall mail a written, dated notice of the adverse action to the applicant or the provider at the applicant's or provider's last known address.
- B.** A notice of adverse action shall specify:
1. The adverse action taken and date the action will be effective;
  2. The reasons supporting the adverse action; and
  3. The procedures by which the applicant or provider may contest the action taken and the time period in which to do so.
- C.** Except as provided in subsection (D), a revocation, suspension, or denial of recertification is effective 20 calendar days from the date on the notice or letter advising the provider of the adverse action.

- D.** A suspension, revocation, or denial of recertification is effective on the date of the notice or letter advising the person of the adverse action if:
1. The adverse action is based on the failure of child care personnel to comply with or meet the requirements of A.R.S. § 41-1964; or
  2. The Department bases the adverse action on a determination that the health, safety, or welfare of a child in care is in jeopardy.
- E.** The Department shall stop payment authorization for all subsidized children in care on the effective date of a suspension, revocation, or denial of recertification.
- F.** The Department shall not authorize the referral of additional children to a provider after mailing a notice of adverse action to the provider's last known address.

#### Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Amended effective June 4, 1998 (Supp. 98-2). Former Section R6-5-5227 renumbered to R6-5-5228 and new Section adopted by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### R6-5-5228. Appeals

- A.** An applicant or provider may appeal the following Department decisions:
1. Denial of certification or re-certification;
  2. Suspension of a certificate; and
  3. Revocation of a certificate.
- B.** A person who wishes to appeal an adverse action shall file a written request for a hearing with the Department within 15 calendar days of the date on the notice or letter advising the provider of the adverse action.
- C.** The Department shall conduct a hearing as prescribed in 6 A.A.C. 5, Article 75. Decisions based on failure to clear a fingerprint check or criminal history check are not appealable under this Article.
- D.** Matters relating to contractual agreements with the Department, including payment rates and amounts, are not appealable under this Article.
- E.** When an adverse action based on R6-5-5226(A)(7) is appealed under this Article, allegations of child maltreatment are not at issue and shall not be adjudicated in an administrative proceeding conducted under subsection (C).

#### Historical Note

New Section R6-5-5228 renumbered from R6-5-5227 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

#### ARTICLE 53. REPEALED

*Former Article 53 consisting of Sections R6-5-5301 through R6-5-5305 repealed effective April 9, 1981.*

#### ARTICLE 54. REPEALED

*Former Article 54 consisting of Sections R6-5-5401 through R6-5-5411 repealed effective November 8, 1982.*

#### ARTICLE 55. CHILD PROTECTIVE SERVICES

##### R6-5-5501. Definitions

The definitions in A.R.S. §§ 8-531, 8-201, and 8-801, and the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-201(1).
2. "Abuse" means the same as A.R.S. § 8-201(2).
3. "Aggravating factor" means a specific circumstance that increases the risk of harm to a child and may result in a shorter investigation response time.

4. “Alleged abuser” means a child’s parent, guardian, or custodian accused of child maltreatment.
5. “Alternative investigation” means, under R6-5-5507, a method to determine that a report of child maltreatment is unsubstantiated without a field investigation.
6. “Alternative response” means a report referred to Family Builders for assessment and services and not investigated by CPS according to Laws 1997, Chapter 223, § 2.
7. “Caregiver” means a child’s parent, guardian, or custodian.
8. “Child” means a person less than age 18.
9. “Child Abuse Hotline,” or “the Hotline,” means a state-wide, toll-free telephone service, including TDD service, that the Department operates 24 hours per day, seven days per week, to receive calls about child maltreatment.
10. “CHILDS” means the Children’s Information Library and Data Source, which is a comprehensive automated system to support child welfare policies and procedures and includes information on investigations, ongoing case management, and payments.
11. “CHILDS Central Registry” means the Child Protective Services Central Registry, a confidential computerized database within CHILDS, that the Department maintains according to A.R.S. § 8-804.
12. “Child welfare agency” has the same meaning as in A.R.S. § 8-501(A)(1).
13. “CPS” means Child Protective Services, a program within the Administration for Children, Youth and Families (ACYF), a division of the Department designated to receive and investigate allegations of child maltreatment and provide protective services as described in subsection (40).
14. “CPS Administrator” means the DES Administrator responsible for operation of CPS, or that person’s designee, which may include the Field Operations Manager, the CPS District Program Manager (“DPM”), the CPS Assistant District Program Manager (“APM”), or the CPS Local Office Manager.
15. “CPS Specialist” has the same meaning ascribed to “protective services worker” in A.R.S. § 8-801(2).
16. “CPS-CIU” means the Child Protective Services Central Intake Unit that operates the Child Abuse Hotline, screens incoming communications, and transmits reports to a CPS unit.
17. “Custodian” means a person defined in A.R.S. § 8-201(8). For CPS reporting purposes, a custodian is also any person with whom the child resides at the time of a maltreatment and includes a:
  - a. Friend,
  - b. Relative,
  - c. Foster parent, and
  - d. Child welfare agency.
18. “DCYF” means the Department’s Division of Children, Youth and Families, an administrative unit that includes CPS.
19. “DDD” means the Department’s Division of Developmental Disabilities.
20. “Delinquent act” has the same meaning prescribed in A.R.S. § 8-201(9).
21. “Department” means the Arizona Department of Economic Security.
22. “Exploitation” means use of a child by a parent, guardian, or custodian for material gain, which may include forcing a child to panhandle, steal, or perform other illegal activities.
23. “Family” means persons, including at least one child, who are related by blood or law, who are legal guardians of a child, or who reside in the same household.
24. “Family assessment” means a process that:
  - a. CPS uses to evaluate a family’s strengths, weaknesses, and problems;
  - b. Is based on the family’s history, observations about the family, professional opinions, and other information; and
  - c. Includes a child safety assessment to determine the probability of risk to a child under R6-5-5512.
25. “Family Builders” means a program that allows CPS to refer selected reports to community-based providers for a family assessment and services according to Laws 1997, Chapter 223, § 2.
26. “Guardian” means the same as A.R.S. § 8-531(9).
27. “Incoming communication” means a telephonic, written, or in-person contact to CPS that is received by or ultimately directed to the Child Abuse Hotline.
28. “Licensing specialist” means a person who is:
  - a. Designated by the Department or another state licensing agency; and
  - b. Responsible for licensing, supervision, support, and monitoring of foster homes or child welfare agencies.
29. “Lifestyle” means a way of life or pattern of conduct that reflects the values and attitudes of a child’s parent, guardian, or custodian.
30. “Maltreatment” means abuse, neglect, abandonment, or exploitation of a child. When used in reference to CPS activities, maltreatment means that a parent, guardian, or custodian:
  - a. Has committed an act of maltreatment,
  - b. May commit an act of maltreatment,
  - c. Has permitted another person to commit an act of maltreatment, or
  - d. Had reason to know that another person might commit an act of maltreatment and did not act to prevent the potential maltreatment.
31. “Mandated reporter” means a person who is required to report suspected child maltreatment under A.R.S. § 13-3620.
32. “Minor hygienic problem” means a body condition that does not pose a risk of serious or immediate harm, such as body odor, dirty hair, matted hair, dirty clothing, and treated chronic head lice.
33. “Mitigating factor” means a specific circumstance that reduces the risk of harm to a child and may permit a longer investigation response time.
34. “Neglect” or “neglected” means the same as A.R.S. § 8-201(21).
35. “Non-abusive caregiver” means a parent, guardian, or custodian who is not the subject of a CPS report or an investigation of alleged maltreatment.
36. “Notice of removal” means a form of notification that CPS gives to a person other than a caregiver when CPS removes a child and places the child in temporary custody.
37. “Ongoing protective services” are voluntary or involuntary social services designed to help a family resolve problems that contribute to child abuse and may include counseling, parenting classes, parent aide services, and voluntary foster care placement.
38. “Out-of-home placement” means a place where a child resides when the child is unable to reside at home because of maltreatment and includes:

- a. A relative home,
  - b. A foster home,
  - c. A licensed child welfare agency,
  - d. A behavioral health facility,
  - e. An unlicensed nonrelative,
  - f. An independent living program, and
  - g. A group home for persons with developmental disabilities.
39. "Probable cause" means that the Department has some evidence that an allegation is more likely to be true than not true.
40. "Protective services" means the same as A.R.S. § 8-801(1).
41. "PSRT" means the DCYF Protective Services Review Team that administers the process described in A.R.S. § 8-811 for appeal of proposed substantiated findings of abuse or neglect.
42. "Report" means a classification assigned to an incoming communication after the Child Abuse Hotline has screened the communication and found it to include:
- a. An allegation of maltreatment about a person who is currently a child, and
  - b. Sufficient information for CPS to locate the child who is the subject of the maltreatment.
43. "Screening" means an initial process of determining whether an incoming communication contains an allegation of child maltreatment and should be classified as a report.
44. "Standard response time" means the period between the time a local CPS office receives a report from the Hotline and an action is taken to determine that a child victim is safe, in the absence of aggravating or mitigating factors.
45. "Substantiated" means that a CPS Specialist has concluded, after an investigation, that there is probable cause to believe an alleged abuser committed an act of child maltreatment.
46. "TDD" means a telecommunication device for the deaf.
47. "Unsubstantiated" means that a CPS Specialist has concluded, after an investigation, that there is no probable cause to believe an alleged abuser committed an act of child maltreatment.

#### Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5501 repealed, new Section R6-5-5501 adopted effective December 8, 1983 (Supp. 83-6). Amended by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

#### R6-5-5502. Receipt and Screening of Information; Child Abuse Hotline

- A. The Department operates a Child Abuse Hotline to receive and screen incoming communications. If a person calls, visits, or writes a Department office other than the Child Abuse Hotline to report child maltreatment, the Department shall refer the person or written communication to the Hotline.
- B. The Department accepts anonymous calls of alleged maltreatment.
- C. When the Hotline receives a communication, the Hotline staff shall:
  - 1. Ask a caller's identity;
  - 2. Use the standardized questions listed in Appendix 1 to this Article, to determine:
    - a. The type of maltreatment alleged, and
    - b. Whether to classify the communication as a report, and

- 3. Check the CHILDS Central Registry and other DES computer databases for prior reports on the same persons.
- D. When the Department receives an oral report from a mandated reporter, the Department shall ask the mandated reporter to file a written statement confirming the oral report.

#### Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5502 repealed, new Section R6-5-5502 adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1). Numbering of subsection (C)(3) amended to correct typographical error (Supp. 00-2).

#### R6-5-5503. Non-Reports

Unless a communication includes an allegation of child maltreatment, the Department shall not classify as a report statements concerning the following matters:

- 1. A child's absence from school;
- 2. A child age 8 or older who allegedly committed a delinquent act;
- 3. Siblings of a child age 8 or older who allegedly committed a delinquent act;
- 4. A child whose parents are absent but made arrangements for the child's care;
- 5. A child who is receiving treatment from an accredited Christian Science practitioner, or other religious or spiritual healer, unless the child's health is:
  - a. In imminent harm, under R6-5-5512(B); or
  - b. Endangered by lack of medical care;
- 6. A child with minor hygienic problems;
- 7. The lifestyle of a child's parent, guardian, or custodian;
- 8. Custody disputes, including:
  - a. A noncustodial parent who is denied visitation by the custodial parent, and
  - b. A relative or other person who wants legal custody of a child; and
- 9. Spiritual neglect of a child or the religious practices or beliefs to which a child is exposed.

#### Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5503 repealed, new Section R6-5-5503 adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

#### R6-5-5504. Preliminary Screening Classifications

- A. Screening Classifications. After preliminary screening, Child Abuse Hotline staff shall classify a communication into one of the following categories:
  - 1. A communication that is a non-report, or
  - 2. A report for investigation.
- B. Communication that is a non-report.
  - 1. If a caller describes a problem that does not involve child maltreatment, the Hotline staff shall refer the caller to a community resource that can help with the problem.
  - 2. If a communication involves a child who is already in the Department's care, custody, and control, the Hotline staff shall record the information and send it to the child's case manager for action. If a communication involves a licensed out-of-home care provider, the Hotline shall also notify the provider's licensing specialist or the appropriate licensing authority.
  - 3. If a communication involves suicidal or homicidal behavior, or presents a danger to self or others, the Hotline staff



shall refer the caller to law enforcement or behavioral health services.

4. If a communication involves an incorrigible or delinquent child who is age 8 or older, the Hotline staff shall refer the caller to the local county juvenile probation office.
5. If a communication involves child maltreatment by a person other than a child's caregiver, without the caregiver's knowledge, the Hotline staff shall notify, and direct the caller to notify, local law enforcement.

**C. Review of non-reports.**

1. If the information provided by a caller is not a report, the CPS Hotline staff shall:
  - a. Record the information;
  - b. Inform a caller that the information is not a report; and
  - c. If a caller disagrees with the decision not to take a report, advise the caller that a request may be made for a supervisory review.
2. If a caller requests a supervisory review, the Hotline staff shall transfer the caller to an available supervisor. The caller may request further review by the Child Abuse Hotline Assistant Program Manager, Hotline Program Manager, and ultimately, the ACYF Field Operations Manager.
3. A Child Abuse Hotline supervisor or a CPS quality assurance specialist shall review all communications not classified as a report within 48 hours of receipt to verify that the communication was properly classified.

**D. Communication that is a report for investigation.**

1. If a communication contains the information required for a report, the Hotline staff shall gather additional information using the standardized questions listed in Appendix 2.
2. The Hotline staff shall assign each report a priority code and may assign a tracking code.
3. The Hotline staff may shorten or lengthen the response time based on aggravating or mitigating factors received during the screening.
4. The Hotline staff shall give the caller the name and phone number of the local office supervisor receiving the report.
5. The Hotline staff shall enter the report information into CHILDS.
6. The Hotline staff shall immediately transmit the report to a local office for disposition.

**Historical Note**

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5504 repealed, new Section R6-5-5504 adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5505. Priority Codes; Initial Response Time**

**A. Priority codes and initial response times are:**

1. Priority 1: High Risk;
  - a. Standard Response Time: two hours;
  - b. Mitigated Response Time: 24 hours.
2. Priority 2: Moderate Risk;
  - a. Standard Response Time: 48 hours;
  - b. Aggravated Response Time: 24 hours;
  - c. Mitigated Response Time: 72 hours.
3. Priority 3: Low Risk;
  - a. Standard Response Time: 72 hours;
  - b. Aggravated Response Time: 48 hours;
  - c. Mitigated Response Time: 72 hours excluding weekends and Arizona state holidays.
4. Priority 4: Potential Risk;

- a. Standard Response Time: seven days;
- b. Aggravated Response Time: 72 hours excluding weekends and Arizona state holidays.

- B.** All response times are measured from the time that the CPS local office receives the report from the Child Abuse Hotline to the time action is taken to determine the current safety of the alleged victim.
- C.** To comply with the priority response time, entities other than CPS, such as law enforcement personnel, emergency personnel, or paramedics, may initially respond to a report.
- D.** If law enforcement or emergency personnel initially respond to a report, CPS shall respond and investigate the report no later than the mitigated response time for the designated priority.

**Historical Note**

Former Section R6-5-5505 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5506. Methods for Investigation of Reports**

- A.** Upon receipt of a report, a CPS unit supervisor:
  1. May aggravate or mitigate the response time, if the Child Abuse Hotline has not assigned a mitigating or aggravating factor, but shall not change any aggravating or mitigating factors assigned by the Hotline; and
  2. Shall assign one of the following dispositions:
    - a. Field investigation;
    - b. Alternative investigation under R6-5-5507;
    - c. Legally prohibited investigation. A federal, state statute, or court order prohibits CPS from investigating if, for example:
      - i. The alleged maltreatment occurs on a United States military base or Tribal reservation land, or
      - ii. A court orders CPS not to investigate; or
    - d. Alternative response, such as reports referred to Family Builders.
- B.** The CPS unit supervisor shall document the action taken and the disposition.

**Historical Note**

Former Section R6-5-5506 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5507. Alternative Investigation**

- A.** Upon receipt of a report, a CPS unit supervisor may conduct an alternative investigation.
- B.** To conduct an alternative investigation, CPS shall contact a mandatory reporting source who is currently involved with the family and can provide information that:
  1. The child and other children residing in the home are not:
    - a. Current victims of maltreatment, or
    - b. At risk of imminent harm; and
  2. The allegations are unsubstantiated.
- C.** A CPS administrator shall review and approve any decision to conduct an alternative investigation.
- D.** If information gathered during an alternative investigation indicates that an alleged victim may be at risk of harm, the CPS Supervisor shall immediately assign the case for field investigation.
- E.** CPS shall not conduct an alternative investigation if an allegation involves an alleged victim who is:
  1. Already in Department custody,
  2. Currently the subject of an open CPS case,

3. In a DES- or DHS-licensed or certified facility, or
4. In a DES-licensed family foster home.

**Historical Note**

Former Section R6-5-5507 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5508. Conduct of a Field Investigation**

- A.** When conducting a field investigation, a CPS Specialist shall determine:
  1. The name, age, location, and current physical and mental condition of all children in the home of the alleged victim;
  2. Whether any child in the home has suffered maltreatment; and
  3. Whether any child in the home is at risk of maltreatment in the future.
- B.** A CPS Specialist shall investigate allegations using the following methods:
  1. Interview the alleged victim;
  2. Interview the alleged victim's caregiver who allegedly committed the abuse;
  3. Interview other adults and children residing in the home;
  4. Interview other persons who may have relevant information, including the reporting source, medical personnel, relatives, neighbors, and school personnel;
  5. Review available documentation including medical and psychiatric reports, police reports, school records, and prior CPS files; or
  6. Consult with law enforcement.
- C.** A CPS Specialist may interview a child without prior parental consent under A.R.S. § 8-802(C)(2).
- D.** A CPS Specialist may exclude the alleged abuser from participating in an interview with the alleged victim, the alleged victim's siblings, or other children residing in the alleged victim's household.
- E.** Before interviewing a caregiver, a CPS Specialist shall:
  1. Orally inform the caregiver of the rights and duties under A.R.S. § 8-803(B);
  2. Give the caregiver a written statement summarizing the same information; and
  3. Ask the caregiver to sign a written acknowledgment of receipt of the information.
- F.** A CPS Specialist may take temporary custody of a child under A.R.S. §§ 8-821(A) and (B) and 8-802(C)(4). The CPS Specialist shall take temporary custody of an alleged victim if the alleged victim needs to be examined and the caregiver will not consent to the examination.
- G.** If a CPS Specialist finds more allegations of maltreatment during the investigation, the CPS Specialist shall incorporate the allegations into the report and investigate under this Article.

**Historical Note**

Former Section R6-5-5508 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5509. Establishing Probable Cause of Child Maltreatment**

To determine whether to recommend a substantiated allegation of maltreatment, the CPS Specialist shall consider all information gathered during the investigation, including:

1. Whether the alleged abuser or non-abusive caregiver admitted the maltreatment;

2. Whether a child provided a developmentally appropriate description of maltreatment;
3. Witness statements from persons other than the caregivers and the alleged victim;
4. Physical or behavioral signs of maltreatment or damage;
5. Medical opinions and opinions from treating professionals, including any conflict of opinion;
6. The consistency of the information provided; and
7. History of child maltreatment.

**Historical Note**

Former Section R6-5-5509 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5510. Investigation Findings; Required Documentation**

After completing an investigation, a CPS Specialist shall:

1. Unsubstantiate the allegations or make a proposed finding that the allegation is substantiated based on whether the CPS Specialist finds probable cause to believe maltreatment occurred, and after considering the information listed in R6-5-5509;
2. Determine whether the family has any unresolved problems involving child maltreatment and needs further services;
3. Document in the case record the reason for the finding;
4. Include in the case record any oral and written statements or other documentation provided by a caregiver;
5. Notify the PSRT of a proposed substantiated allegation finding under A.R.S. § 8-811;
6. Enter an unsubstantiated allegation finding into the CHILDS Central Registry and send the caregiver written notice of the unsubstantiated allegation finding.

**Historical Note**

Former Section R6-5-5510 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5511. Ongoing Services; Imminent Harm Not Identified; Case Closure**

- A.** If a finding is unsubstantiated or substantiated without unresolved problems, the CPS Specialist shall close the case.
- B.** If a finding is unsubstantiated or substantiated, and there is no risk of imminent harm to a child, but the family has unresolved problems that create a potential for maltreatment, CPS shall determine whether to open the case for ongoing protective services if:
  1. A family requests ongoing protective services, or
  2. A dependency action is pending.
- C.** CPS shall offer a family voluntary protective services before filing a dependency action.
- D.** When CPS offers a family voluntary protective services, CPS shall:
  1. Document the family's acceptance or refusal of services,
  2. Document any services provided, and
  3. Document any action that CPS has taken to ensure that a child is safe.
- E.** To determine how to proceed for ongoing services, CPS shall consider the following criteria:
  1. Whether a family acknowledges past maltreatment or potential for future maltreatment,
  2. Whether the services are available to help a family address risk factors, and
  3. Whether a family is willing to cooperate with the provision of services.

**Historical Note**

Former Section R6-5-5511 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5512. Procedures for Substantiated Reports; Removal; Imminent Harm**

- A.** If CPS recommends a substantiated finding of maltreatment, CPS shall determine whether the child can safely remain in the home or needs to be removed.
- B.** The following situations indicate imminent harm and require CPS to intervene as provided in R6-5-5513:
  1. No caregiver is present and a child cannot care for himself or herself or for other children in the household;
  2. A child has severe or serious nonaccidental injuries that require immediate medical treatment, such as:
    - a. Head injury, with risk of damage to the central nervous system;
    - b. Internal injuries;
    - c. An injury resulting in coma;
    - d. Multiple plane injuries indicative of battering;
    - e. Facial bruises;
    - f. Fractures or bruises in a nonambulatory child;
    - g. Instrumentation injury with risk of impairment; or
    - h. Immersion burns;
  3. A child requires immediate medical treatment for a life-threatening medical condition or a condition likely to result in impairment of bodily functions or disfigurement, and the child's caregiver is not willing or able to obtain treatment;
  4. A child is suffering from nutritional deprivation that has resulted in malnourishment or dehydration to the extent that the child is at risk of death or permanent physical impairment;
  5. A doctor or psychologist determines that a child's caregiver is unable or unwilling to provide minimally adequate care;
  6. The physical or mental condition of a child's caregiver endangers a child's health or safety, such as a caregiver who:
    - a. Exhibits psychotic behavior and fails to take prescribed medications,
    - b. Suffers from a deteriorating physical condition or illness, or
    - c. Takes prescribed or nonprescribed drugs that result in a child being neglected;
  7. The home environment has conditions that endanger a child's health or safety, such as human or animal feces, undisposed-of garbage, exposed wiring, access to dangerous objects, or harmful substances that present a substantial risk of harm to the child;
  8. A doctor or psychologist has determined that:
    - a. A child's caregiver has emotionally damaged the child;
    - b. The child is exhibiting severe anxiety, depression, withdrawal, or aggressive behavior due to the emotional damage; and
    - c. The caregiver is unwilling or unable to seek treatment for the child; or
  9. A CPS Specialist has probable cause to believe that a caregiver has engaged in sexual conduct with a child or has allowed the child to participate in sexual activity with others.
- C.** In situations not listed in subsection (B), a CPS specialist shall determine the risk of imminent harm and need for removal by:

1. Doing a family assessment to identify family strengths and risk factors; and
2. Evaluating all facts and circumstances surrounding a child and family situation, including the following:
  - a. Whether a law enforcement official or medical professional expresses concern about risk to the child victim if the child victim returns to or remains in the home;
  - b. The alleged abuser's behavior towards the child victim;
  - c. Other adults in the household's behavior towards the child victim;
  - d. Whether the child victim resides with a parent or other adult who is willing and able to protect the child;
  - e. The conditions of the home environment and whether those conditions threaten the child victim's safety or physical health;
  - f. Whether there has been a pattern of maltreatment, particularly a pattern of incidents of increasing severity;
  - g. The nature and severity of the alleged maltreatment;
  - h. Whether DES is able to provide services to the child or family to alleviate conditions or problems that pose a risk of maltreatment, without the need for removal;
  - i. Whether the child's caregiver refuses access to a child or declined an offer of in-home services;
  - j. The family's strengths and risk factors;
  - k. The child's current physical and mental condition; and
  - l. Whether the child victim has injuries that require immediate medical treatment.

**Historical Note**

Former Section R6-5-5512 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5513. Alternatives to Involuntary Removal; Voluntary Placement; Removal**

- A.** Before removing a child from home without the consent of the child's caregiver, CPS shall consider whether:
  1. CPS may help the family obtain resources such as emergency food, shelter, clothing, or utilities, so that the child can safely remain in the home;
  2. CPS may enter into an agreement with the child's caregivers that provides for the alleged abuser to leave the home and for remaining family members to protect the child;
  3. The caregiver identifies a relative or friend who can temporarily care for the child without court intervention or orders;
  4. CPS may help the protective caregiver and the child leave the home of the alleged abuser;
  5. CPS may place the child in voluntary foster care under A.R.S. § 8-806.
- B.** If a child is at risk of imminent harm and the alternative methods identified in subsection (A) will not eliminate the risk of harm, CPS shall take temporary custody of the child as provided in A.R.S. § 8-821.
- C.** CPS shall document the placement alternatives considered and the reasons for not selecting the options listed in subsection (A).

**Historical Note**

Former Section R6-5-5513 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5514. Removal Review**

- A. Under A.R.S. § 8-822(3), within 48 hours of removing a child and before filing a dependency petition, CPS shall have a removal review team assess alternatives to continued out-of-home placement and the need for CPS to file a dependency petition.
- B. The removal review team shall include the CPS specialist who conducted the investigation and removed the child and the CPS specialist's supervisor. The removal review team shall also include at least one other qualified professional such as a psychologist or counselor.
- C. The removal review team shall consider the factors listed in R6-5-5512 and R6-5-5513(A) to determine whether to return a child, pursue a voluntary placement option, or file a dependency petition.
- D. The team shall document, in the child's case record, alternatives considered and the reason for the action taken.
- E. Within 48 hours of removing a child, DES shall either file a dependency petition or return the child, as required by A.R.S. § 8-821.

**Historical Note**

Former Section R6-5-5514 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5515. Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency**

- A. Before CPS investigates an allegation of maltreatment in a licensed child welfare agency ("agency"), the CPS Specialist shall advise the agency's chief executive officer, or that person's designee, of the following:
  1. The nature of the allegation,
  2. How CPS will conduct the investigation,
  3. The names of the agency staff members and children that the CPS Specialist plans to interview, and
  4. The rights listed in subsection (C).
- B. Notwithstanding subsection (A), CPS may conduct an unannounced investigation if:
  1. The agency's chief executive officer is the subject of a maltreatment allegation, or
  2. Prior notice of the investigation may jeopardize the safety of a child in the agency's care.
- C. When CPS investigates an allegation of maltreatment at an agency, the agency may:
  1. Seek legal counsel at any time during the investigation;
  2. Present information about the allegation before CPS issues a finding; and
  3. Receive:
    - a. An oral status report on the progress of an investigation not completed within 21 days,
    - b. A copy of the report with personally identifiable information redacted, and
    - c. Written notice of the investigation finding.
- D. The Department shall document the investigation and findings in an agency's licensing file.

**Historical Note**

Former Section R6-5-5515 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final

rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5516. Procedures for Investigations of Out-of-Home Care Providers**

- A. In this Section, an "out-of-home care provider" means:
  1. A child in the custody of the Department by court order or voluntary foster care under A.R.S. § 8-806 and placed with:
    - a. An unlicensed nonrelative,
    - b. An unlicensed relative,
    - c. A licensed family foster home,
    - d. A certified adoptive home; and
  2. A family child care home provider certified by the Department under A.R.S. § 46-807.
- B. A CPS Specialist shall notify the following of an investigation of an allegation of abuse or neglect by an out-of-home care provider:
  1. The parent or legal guardian of each child in the home,
  2. The case manager or supervisor for each child in the home,
  3. The attorney and guardian ad litem for each child in the home, and
  4. The provider's licensing or certification specialist.
- C. When CPS investigates an allegation of sexual abuse, a CPS Specialist shall audiotape or videotape all interviews.
- D. Unless a situation jeopardizes the safety of a child, a CPS Specialist shall consult with the following individuals before removing a child from an out-of-home care provider:
  1. The child's case manager or supervisor,
  2. The foster home licensing specialist or supervisor,
  3. The ACYF District Program Manager, and
  4. The Assistant Attorney General if the child is in the physical custody of the provider.
- E. CPS shall notify the parent or legal guardian of each child in the provider's care, the out-of-home care provider, and each child's case manager of the investigation findings.
- F. CPS shall hold a case conference in three days, if CPS intends to substantiate a report to discuss the investigation findings and to determine the Department's recommendations regarding licensing.
- G. An out-of-home care provider may bring a person representing the provider's interests to the case conference after waiving the provider's right to confidentiality.
- H. The Department shall document the investigation and findings in the case record.

**Historical Note**

Former Section R6-5-5516 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**R6-5-5517. Repealed****Historical Note**

Former Section R6-5-5517 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5518. Repealed****Historical Note**

Former Section R6-5-5518 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5519. Repealed****Historical Note**

Former Section R6-5-5519 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5520. Repealed****Historical Note**

Former Section R6-5-5520 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5521. Repealed****Historical Note**

Former Section R6-5-5521 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5522. Repealed****Historical Note**

Former Section R6-5-5522 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5523. Repealed****Historical Note**

Former Section R6-5-5523 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5524. Repealed****Historical Note**

Former Section R6-5-5524 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5525. Repealed****Historical Note**

Former Section R6-5-5525 repealed effective December 8, 1983 (Supp. 83-6).

**R6-5-5526. Repealed****Historical Note**

Former Section R6-5-5526 repealed effective December 8, 1983 (Supp. 83-6).

**Appendix 1. Pre-screening Cue Questions**

1. May I have your name, phone number, and relationship to the child? (Assure the reporting source he or she can remain anonymous. Explain that CPS will not be able to contact him/her for additional information without a name and phone number.)
2. What is your concern about the child? How old is the child?
3. What is the family's home address? Does the child live there? If not, where can we locate the child, that is, school, day care, relative? Who is living in the home?
4. Do you know who abused or neglected the child? If so, who? (This includes staff of a licensed or certified DES facility or foster or child care home or a licensed DHS Level I, II, or III Behavioral Health Treatment facility.) Do you know when he or she will see the child next?
5. Did the \_\_\_\_\_ (parent, guardian, or custodian) know about the abuse or neglect?
6. Is the \_\_\_\_\_ (parent, guardian, or custodian) letting the child see this person?

**Historical Note**

New Appendix 1 adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**Appendix 2. Cue Questions**

**IF IT IS DETERMINED TO HAVE ALL OF THE ELEMENTS OF A REPORT FOR FIELD INVESTIGATION (that is, a child victim, maltreatment by a parent, guardian, or custodian, and the child can be located), CHECK CPSCR AND GATHER REPORT DEMOGRAPHICS.**

Include the address of the child, the name of the apartment complex, trailer park, and directions as needed.

**PHYSICAL ABUSE CUE QUESTIONS:**

1. Describe the injury (size, shape, color, and location).
2. Do you know when the injury occurred? Has abuse occurred before? How often does the abuse occur?
3. Did the child say what happened?
4. Do you know if the child was seen by a medical doctor? If so, what is the name and phone number of the doctor? If the source is a medical doctor, is the injury consistent with the explanation?

**If the call concerns a licensed or certified DES facility, foster or child care home, or a DHS Level I, II, or III Behavioral Health Treatment facility, ask:**

5. Did the injury occur as a result of restraint?
6. What kind of restraint was used?
7. Why was the child restrained?
8. Will the staff person have contact with the child or other children in the facility?
9. Do you know the name of the licensing specialist? If so, what is the name and phone number?
10. Do you know the name of the child's case manager? If so, what is the name and phone number?

**EMOTIONAL ABUSE CUE QUESTIONS:**

1. Specifically, what is the person doing (to have the impact on the child)?
2. Have you noticed a change in the child's behavior?
3. What signs or behaviors is the child exhibiting?
4. Do you think the child's behavior is related to what the parent, guardian, or custodian is doing? If so, how?
5. Do you know if the child has seen a medical doctor, psychologist, or mental health professional? If so, what is the name and phone number? Do you know the diagnosis?

**NEGLECT CUE QUESTIONS:****A. INADEQUATE SUPERVISION**

1. Is the child alone NOW? If yes, how long has the child been alone? Where is the person who is supposed to be watching the child? When will the person return? Have you called the police?
2. If the child is not alone, who is watching the child now? What are your concerns about the person who is watching the child?
3. Do you know how often and when this happens?
4. What happens when the child is alone or inadequately supervised?
5. Does this child know how to contact the parent, guardian, or custodian?
6. Does the child have emergency numbers and know how to use the phone?
7. Do you know if anyone is checking on the child? If so, what is the name and phone number? How often?

**If the call concerns a licensed or certified DES facility, foster or child care home, or DHS Level I, II, or III Behavioral Health Treatment facility, ask:**

8. What supervision was being provided at the time of the sexual conduct or physical injury between the children?
9. Did the facility or foster or child care home know that the child may physically or sexually assault another child?
10. Did the staff or foster or child care home person know that the child may physically or sexually assault another child?
11. What steps were being taken to prevent the child from assaulting other children?
12. What steps are being taken to restrict contact between the child and other children?
13. Do you know the name of the licensing specialist? If so, what is the name and phone number?
14. Do you know the name of the child's case manager? If so, what is the name and phone number?

**B. SHELTER**

1. When was the last time you saw the child or the home?
2. Describe any health or safety hazards where they live. Has anything happened to the child?
3. Do you know how long they have been in this situation?
4. Do you know why they live like this?

**C. MEDICAL CARE**

1. What are the child's symptoms?
2. Is the parent, guardian, or custodian aware of the problem?
3. Do you know when they last saw a medical doctor? Who was the medical doctor? If so, why?
4. Do you know the reasons the person is not getting medical care for the child?

**If reporting source is a medical doctor or doctor's representative, ask only the following questions:**

5. What is the medical or psychiatric condition or diagnosis of this child and when did it begin?
6. What medical care is needed?
7. What will happen if the child does not receive the medical care?
8. What are your concerns about the parent, guardian, or custodian response to the problem?

**D. FOOD**

1. What makes you believe the child is not getting enough food? Describe the physical condition of the child.
2. Do you know if someone else is feeding the child? If so, who?
3. When was the last time you saw the child or have you been in the home? If so, describe the food you saw.
4. Do you know if the child has seen a medical doctor? If so, what is the name and phone number?

**E. CLOTHING**

1. Describe what the child is wearing and the weather conditions.
2. What effect is it having on the child?

**SEXUAL ABUSE CUE QUESTIONS:**

1. Why do you think the child has been sexually abused or is at risk of sexual abuse (activities, physical signs, or behaviors)?
2. Who saw these activities, signs, or behaviors?
3. Has the child told anyone? If so, who and when?
4. What is the child saying about sexual abuse?
5. Do you know where and when this last occurred?
6. Do you know what contact this person has with the child?
7. Do you know if the child *has* seen a medical doctor? If so, what is the name and number?

**ABANDONED CUE QUESTIONS:**

1. Do you know where the parent is now?
2. When did the parent last have contact with the child?
3. When do you think the parent is coming back?
4. What arrangements did the parent make for care of this child?
5. How long are you able or willing to care for the child? Are there relatives available?
6. If so, what is the name, address, phone number?

**DRUG-EXPOSED INFANTS CUE QUESTIONS:**

1. Has the child or mother been tested? If so, what are the results?
2. What is the name of the medical doctor or hospital?
3. What is the parental history of drug use? (What drugs, when was last drug use, used during what trimester?)
4. What is the parental history of drug treatment?
5. Describe the medical and physical condition of the child?
  - a. Birth weight,
  - b. Gestational age,
  - c. Apgar score,
  - d. Prenatal care.

6. Have preparations been made in the home for the new baby?

**NONSEXUAL EXPLOITATION CUE QUESTIONS:**

1. Describe how the child is being exploited.
2. What reason was given for the exploitation?
3. How long has this been going on?

**POTENTIAL ABUSE AND NEGLECT CUE QUESTIONS:**

1. Describe behaviors (of the parent, guardian, custodian, or child) that give you reason to believe that abuse or neglect may occur.
2. Has abuse or neglect happened before? If so, when and where?
3. Has the \_\_\_\_\_ (parent, guardian, or custodian) expressed concerns about hurting or not being able to care for the child?

**CLOSURE CUE QUESTIONS**

1. Do you know what school or child care facility the child attends? If so, what is the name of the school or child care facility? Dismissal or pick-up time?
2. Has the child expressed concerns about going home? If so, what did the child say to you?
3. Has law enforcement been notified? DR or Badge number?
4. Does the child have any of these special needs or problems?
  - a. Abuse of drugs or alcohol,
  - b. Bizarre behavior,
  - c. Extremely angry or volatile,
  - d. Physically ill,
  - e. Mentally ill,
  - f. Language other than English.
5. Does the \_\_\_\_\_ (parent, guardian, or custodian) have any of these special needs or problems?
  - a. Abuse of drugs or alcohol,
  - b. Bizarre behavior,
  - c. Extremely angry or volatile,
  - d. Physically ill,
  - e. Mentally ill,
  - f. Language other than English.
6. Do you know if CPS or any other agency has been involved with this family?
7. If this report is assigned for field investigation, are there any issues we need to be aware of to ensure the worker's safety (guns, dogs)?

**Historical Note**

New Appendix 2 adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

**ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS****R6-5-5601. Definitions**

The definitions contained in A.R.S. §§ 8-531, 8-201, 8-807, R6-5-5501, and the following definitions apply in this Article:

1. "ACYF" means the Administration for Children, Youth and Families, an organizational unit within the Division of Children, Youth and Families, Department of Economic Security.
2. "Caregiver" means a child's parent, guardian, or custodian.
3. "Completed request" means a Request for Confidential Information form with all information completed as prescribed in R6-5-5603.
4. "CPS" means Child Protective Services, a program within the Administration for Children, Youth and Families, (ACYF) to receive and investigate allegations of child maltreatment and provide protective services as described in R6-5-5501(40).

5. "CPS Administrator" means the DES Administrator responsible for operation of CPS, or that person's designee, which may include the ACYF Field Operations Manager, the CPS District Program Manager ("DPM"), the CPS Assistant District Program Manager ("APM"), or the CPS Local Office Manager.
6. "Department" means the Arizona Department of Economic Security, which is sometimes referred to as "DES" or "ADES."
7. "Estimated processing fee" means an amount a requester must pay to the Department before the Department copies and redacts requested records and files.
8. "Information" means data contained in a hard copy case file or electronic case record.
9. "Maltreatment" means alleged abuse, neglect, abandonment, or exploitation of a child.
10. "Person about whom a report is made" means an alleged abusive caregiver or other person, or a child victim age 12 or older.
11. "Personally identifiable information" means information which specifically identifies a protected individual and includes:
  - a. Name;
  - b. Address;
  - c. Telephone or fax number;
  - d. Photograph;
  - e. Fingerprints;
  - f. Physical description;
  - g. Place, address, and telephone number of employment;
  - h. Social security number;
  - i. Tribal affiliation and identification number;
  - j. Driver's license number;
  - k. Auto license number;
  - l. Any other identifier that is specific to an individual; and
  - m. Any other information that would permit another person to readily identify the subject of the information.
12. "Processing fee" means the final amount a requester must pay to the Department for copying and redacting requested records and files, before the Department will release the copied records and files.
13. "Protected individual" means a person who is the subject of a CPS investigation and includes:
  - a. An alleged victim,
  - b. An alleged victim's sibling,
  - c. A parent,
  - d. A foster parent,
  - e. A child living with the alleged victim,
  - f. The person who made the report of child maltreatment, and
  - g. Any person whose health or safety would be endangered by disclosure of CPS information.
14. "Redacting" means striking or blacking out personally identifiable information contained in CPS records or files on protected individuals so that no one can read the information.
15. "Requester" means an individual or organization that has made a public records request for information from a CPS record or file.
16. "Research requester" means an individual or organization that seeks CPS information for a research or evaluation project.
17. "Workday" means Monday through Friday excluding Arizona state holidays.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5601 repealed, new Section R6-5-5601 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5601 recodified to A.A.C. R6-8-201 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5602. Scope and Application**

- A. This Article governs public records requests for CPS information and all requests made under A.R.S. § 8-807.
- B. The Department shall handle any request or subpoena for information made by a party to a pending administrative proceeding, or civil, criminal, juvenile, probate, or domestic relations court proceeding, in accordance with the disclosure and discovery rules applicable to the particular proceeding or court.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5602 repealed, new Section R6-5-5602 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5602 recodified to A.A.C. R6-8-202 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5603. Procedures for Requesting Information**

- A. A person who wishes to obtain information pursuant to A.R.S. § 8-807 shall comply with the requirements of this Section, and any applicable limitations and conditions in R6-5-5605, R6-5-5607, R6-5-5608, and R6-5-5609.
- B. The requester shall send the Department a completed information request form, as provided in subsections (C) and (D). The form shall include the following information:
  1. Requester's name, address, and telephone number;
  2. Name and title of the person signing the form;
  3. Name of the child victim who is the subject of the CPS report, with as much of the following information as the requester can provide on the child victim:
    - a. Other possible spellings, names, or aliases for the child;
    - b. Date of birth;
    - c. The name of the child's caregivers; and
    - d. The date of the CPS report or time-frame for the report;
  4. Any other data that the requester believes will be likely to assist the Department in identifying the information requested, including the following:
    - a. The name of the child's siblings;
    - b. The child's social security number;
    - c. The name of the CPS Specialist handling the case; and
    - d. The location of the alleged maltreatment;
  5. A description of the specific information needed;
  6. A statement of the purpose for which the information is needed;
  7. The notarized signature of the requester, unless the information is released pursuant to a court order; and
  8. The address to which the requested information is to be mailed, or an indication of another method for handling the response.
- C. The requester shall send the request to a local Department office or to the address indicated on the form.
- D. A person seeking information pursuant to A.R.S. § 8-807(C)(10),(D), or (F), shall also send the Department a processing fee in an amount determined under R6-5-5612.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5603 repealed, new Section R6-5-5603 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5603 recodified to A.A.C. R6-8-203 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5604. Procedures for Processing a Request for Information**

- A. Upon receipt of a request for information, the Department shall determine whether the request is complete. If the request is incomplete, the Department shall either:
  1. Return the form to the requester with a statement explaining the additional information the Department needs to process the request; or
  2. Contact the requester to obtain the missing information.
- B. Upon receipt of a completed request, the Department shall stamp the receipt date on the form. The receipt date is the day that the receiving office designated on the form actually receives the completed request.
- C. Within 30 days of the receipt date, the Department shall provide the requester with one of the following written responses:
  1. A statement that the requested information does not exist;
  2. The requested information;
  3. A statement that the Department cannot provide the requested information within 30 days, the reason for the delay, and the anticipated time-frame for response; or
  4. A statement that the Department cannot legally release the requested information, with the statutory citation and the reason for denial.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5604 repealed, new Section R6-5-5604 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5604 recodified to A.A.C. R6-8-204 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5605. Release of Information in Situations Requiring Immediate Action or Service to a Child**

- A. When a person or entity entitled to receive records under A.R.S. § 8-807(C) requires information from a record or file in order to take immediate action on behalf of, or render service to, a child who is or may be the victim of maltreatment, the Department shall release the information without obtaining the form or fee required by R6-5-5603.
- B. Before releasing information pursuant to this Section, the Department shall verify that the person requesting information is a person entitled to receive information under A.R.S. § 8-807(C).
- C. The Department shall:
  1. Obtain the name and telephone number of the requester;
  2. Call the requester to verify:
    - a. That the person requesting information is a person entitled to receive information under A.R.S. § 8-807(C); and
    - b. That the requester needs the information for a purpose described in subsection (A).

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5604 renumbered as Section R6-5-5605 effective January 13, 1977 (Supp. 77-1). R6-5-5605 recodified to A.A.C. R6-8-205 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5606. Release of Report and Investigation Findings**

- A. Under A.R.S. § 8-807(E), a person about whom a report is made who is not a party in a dependency or termination of parental rights proceeding may obtain a copy of a CPS report and investigation findings, including the following persons:
  1. An adult about whom a CPS report has been made;
  2. A child victim age 12 or older;
  3. A child's parent or legal guardian.
- B. The person requesting a copy of the CPS report and investigation findings shall submit a completed information request form which shall include the information listed in R-5-5603(B). Within 30 days of receipt of a completed information request form, the Department shall provide the requester with either:
  1. A copy of the report and investigation findings, after redacting information as required by A.R.S. § 8-807(E) and (G); or
  2. A written response indicating that the Department does not have the requested report or investigation findings.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5605 renumbered as Section R6-5-5606 effective January 13, 1977 (Supp. 77-1). R6-5-5606 recodified to A.A.C. R6-8-206 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5607. Release of Summary Information to a Person Who Reported Suspected Child Abuse and Neglect**

- A. A person who reports alleged child maltreatment to CPS may contact CPS to determine the outcome of the report as permitted under A.R.S. § 8-807(H).
- B. After receiving a request and before releasing information, the Department shall verify that the person requesting information was the person who made the report as follows:
  1. Obtain the name and telephone number of the requester;
  2. Compare the requester's name with the name of the person listed as the reporter on the CPS report; and
  3. Call the requester and advise whether the Department can legally honor the request.
- C. After verifying the identity of the requester, CPS shall give the person a summary of the outcome with the following information:
  1. Disposition of the report;
  2. Investigation findings, if available; and
  3. A general description of the services offered or provided to the child and family.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5606 renumbered as Section R6-5-5607 effective January 13, 1977 (Supp. 77-1). R6-5-5607 recodified to A.A.C. R6-8-207 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5608. Release of Information to a Research or Evaluation Project**

- A. A person seeking information for a research or evaluation project shall send a written request and provide information required for a complete request, under R6-5-5603. A complete research request shall also include the following information:
  1. If the person works for a research organization:
    - a. The name of the organization, and
    - b. The organization's mission,



2. A description of the research or evaluation project, and
  3. The funding source for the research or evaluation project.
- B.** Upon receipt of a completed request from a research requester, the Department shall advise whether the Department can legally honor the request, and the estimated amount of the processing fee required under R6-5-5612.
- C.** Upon receipt of the processing fee, the Department shall provide the requester with the expected time-frame for releasing the requested information.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5607 renumbered as Section R6-5-5608 effective January 13, 1977 (Supp. 77-1). R6-5-5608 recodified to A.A.C. R6-8-208 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5609. Release of Information to a Legislative Committee**

- A.** A legislative committee entitled to receive information under A.R.S. § 8-807(C)(12), shall send a written request for information to the Department Director, or the Director's designee.
- B.** The written request shall include:
1. The name of the committee,
  2. The purpose for which the information is sought; and
  3. The date by which the committee needs the information.
- C.** The Department Director, or the Director's designee, shall evaluate all requests for information and determine whether to release information to a legislative committee.
- D.** When releasing information to a legislative committee, the Department shall send the committee written notice that the information is confidential and shall not be further disclosed.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5608 renumbered as Section R6-5-5609 effective January 13, 1977 (Supp. 77-1). R6-5-5609 recodified to A.A.C. R6-8-209 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5610. Release of Information to a State Official**

- A.** An Arizona state official entitled to receive information under A.R.S. § 8-807(C)(15) shall send a written request to the Department Director.
- B.** The Director, or the Director's designee, shall verify:
1. That the requesting state official is:
    - a. Responsible for administration of CPS; or
    - b. Responsible for oversight of CPS enabling or appropriating legislation; and
  2. That the requesting state official is seeking the information to carry out official functions.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5609 renumbered as Section R6-5-5610 effective January 13, 1977 (Supp. 77-1). R6-5-5610 recodified to A.A.C. R6-8-210 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5611. Release of Information to an Individual Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect, or Abandonment Who Has Died**

- A.** An individual who requests records and files under A.R.S. § 8-807(C)(13), concerning an alleged victim of abuse, neglect, or abandonment who has died, shall send the Department a completed request on each child.

- B.** Upon receipt of the request form the Department shall stamp the date and time of receipt and complete a record and location search.
- C.** The Department shall notify the requester in writing of the estimated processing fee required under R6-5-5612. If the requester does not want to proceed, the requester shall send the Department written notice to cancel the search.
- D.** Upon receipt of a cancellation notice, the Department shall return the estimated processing fee.
- E.** Upon receipt of the estimated processing fee, the Department shall prepare the records and files within 30 work days from receipt of the estimated processing fee and notify the requester of the final processing fee for records and file preparation.
- F.** After receipt of the final processing fee, the Department shall notify the requester and send the redacted records and files as indicated on the original request.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5610 renumbered as Section R6-5-5611 effective January 13, 1977 (Supp. 77-1). R6-5-5611 recodified to A.A.C. R6-8-211 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2). Section heading corrected at request of the Department, Office File No. M12-330, filed September 4, 2012 (Supp. 12-2).

**R6-5-5612. Fees**

- A.** If a record production will result in a processing fee, the Department shall notify the requester of the estimated processing fee before copying any records. Within 10 days of the date of the estimate, the requester shall send the fee or advise the Department to terminate the request.
- B.** When providing information to the persons entitled to receive information under A.R.S. § 8-807(C)(10), (D), or (F), the Department shall charge a fee of 25¢ per page.
- C.** The fee per page covers the partial cost of:
1. Staff time to research and collect the requested information;
  2. Staff time to review and redact information pursuant to A.R.S. § 8-807(D), (F), and (G);
  3. Administrative staff time to review and prepare the information to be submitted; and
  4. Costs of copying supplies such as paper, toner, and use of equipment.
- D.** The fee per page applies to both persons who obtain copies of files and persons who request to review files that must be redacted prior to review, under A.R.S. § 8-807(C)(10), (D), or (F).
- E.** After the Department has prepared information for release, the Department shall prepare an itemized billing statement showing the document preparation costs and fees the requester must pay before the Department can release the records and files.
- F.** The Department shall refund any prepaid estimated processing fees that exceed the final processing fee.

**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5611 renumbered as Section R6-5-5612 effective January 13, 1977 (Supp. 77-1). R6-5-5612 recodified to A.A.C. R6-8-212 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

**R6-5-5613. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Sec-

tion R6-5-5612 renumbered as Section R6-5-5613 effective January 13, 1977 (Supp. 77-1). R6-5-5613 recodified to A.A.C. R6-8-213 effective February 13, 1996 (Supp. 96-1).

**R6-5-5614. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5613 renumbered as Section R6-5-5614 effective January 13, 1977 (Supp. 77-1). R6-5-5614 recodified to A.A.C. R6-8-214 effective February 13, 1996 (Supp. 96-1).

**R6-5-5615. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5614 renumbered as Section R6-5-5615 effective January 13, 1977 (Supp. 77-1). R6-5-5615 recodified to A.A.C. R6-8-215 effective February 13, 1996 (Supp. 96-1).

**R6-5-5616. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5615 renumbered as Section R6-5-5616 effective January 13, 1977 (Supp. 77-1). R6-5-5616 recodified to A.A.C. R6-8-216 effective February 13, 1996 (Supp. 96-1).

**R6-5-5617. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5616 renumbered as Section R6-5-5617 effective January 13, 1977 (Supp. 77-1). R6-5-5617 recodified to A.A.C. R6-8-217 effective February 13, 1996 (Supp. 96-1).

**R6-5-5618. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5617 renumbered as Section R6-5-5618 effective January 13, 1977 (Supp. 77-1). R6-5-5618 recodified to A.A.C. R6-8-218 effective February 13, 1996 (Supp. 96-1).

**R6-5-5619. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5618 renumbered as Section R6-5-5619 effective January 13, 1977 (Supp. 77-1). R6-5-5619 recodified to A.A.C. R6-8-219 effective February 13, 1996 (Supp. 96-1).

**R6-5-5620. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5619 renumbered as Section R6-5-5620 effective January 13, 1977 (Supp. 77-1). R6-5-5620 recodified to A.A.C. R6-8-220 effective February 13, 1996 (Supp. 96-1).

**R6-5-5621. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5620 renumbered as Section R6-5-5621 effective January 13, 1977 (Supp. 77-1). R6-5-5621 recodified to A.A.C. R6-8-221 effective February 13, 1996 (Supp. 96-1).

96-1).

**R6-5-5622. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5621 renumbered as Section R6-5-5622 effective January 13, 1977 (Supp. 77-1). R6-5-5622 recodified to A.A.C. R6-8-222 effective February 13, 1996 (Supp. 96-1).

**R6-5-5623. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5622 renumbered as Section R6-5-5623 effective January 13, 1977 (Supp. 77-1). R6-5-5623 recodified to A.A.C. R6-8-223 effective February 13, 1996 (Supp. 96-1).

**R6-5-5624. Recodified****Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5623 renumbered as Section R6-5-5624 effective January 13, 1977 (Supp. 77-1). R6-5-5624 recodified to A.A.C. R6-8-224 effective February 13, 1996 (Supp. 96-1).

**ARTICLE 57. REPEALED****R6-5-5701. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5701 repealed, new Section R6-5-5701 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

**R6-5-5702. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5702 repealed, new Section R6-5-5702 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

**R6-5-5703. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5703 repealed, new Section R6-5-5703 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

**R6-5-5704. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5704 repealed, new Section R6-5-5704 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

**R6-5-5705. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5705 repealed, new Section R6-5-5705 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

**R6-5-5706. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5706 repealed, new Section R6-5-5706

adopted effective November 5, 1984 (Supp. 84-6).

Repealed effective April 9, 1998 (Supp. 98-2).

#### **R6-5-5707. Repealed**

##### **Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5707 repealed, new Section R6-5-5707

adopted effective November 5, 1984 (Supp. 84-6).

Repealed effective April 9, 1998 (Supp. 98-2).

#### **R6-5-5708. Repealed**

##### **Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5708 repealed, new Section R6-5-5708

adopted effective November 5, 1984 (Supp. 84-6).

Repealed effective April 9, 1998 (Supp. 98-2).

#### **R6-5-5709. Repealed**

##### **Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5709 repealed, new Section R6-5-5709

adopted effective November 5, 1984 (Supp. 84-6).

Repealed effective April 9, 1998 (Supp. 98-2).

### **ARTICLE 58. FAMILY FOSTER PARENT LICENSING REQUIREMENTS**

#### **R6-5-5801. Definitions**

In addition to the definitions contained in A.R.S. §§ 8-201, 8-501, and 8-531, the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-546(A)(1).
2. "Abuse" means the infliction or allowing physical injury, impairment of bodily function or disfigurement, or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-223 and which is caused by the acts or omissions of an individual having care, [physical] custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212. A.R.S. § 8-546(A)(2).
3. "Adult" means a person age 18 years or older.
4. "Applicant" means a person who submits a written application to the Licensing Authority or a licensing agency to become licensed, or to renew a license as a foster parent. An applicant means both spouses if the adult household caregivers are married, except for a person seeking licensure solely as an in-home respite foster parent.
5. "Case plan" means a written document which is a distinct part of a child's case record, and which identifies the child's permanency goal and target date, desired outcomes, tasks, time-frames, and responsible parties.
6. "Child placing agency" or "placing agency" means:
  - a. The Department, a county probation Department, or the Administrative Office of the Arizona Supreme Court, which are all statutorily authorized to place children into out-of-home care; and
  - b. Any other person or entity authorized to receive children for care, maintenance, or placement in a foster home because the Department has licensed the person or entity as a child welfare agency pursuant to A.R.S. § 8-505.
7. "Corrective action" means a plan that describes steps a foster parent must take to remedy violations of foster care requirements within a specified period of time.
8. "CPS" means Child Protective Services, a Department program responsible for investigating reports of child maltreatment.
9. "CPSCR" means the Child Protective Services Central Registry, a computerized database, which CPS maintains pursuant to A.R.S. § 8-546.03.
10. "Department" or "DES" means the Department of Economic Security.
11. "Developmentally appropriate" means an action which takes into account:
  - a. A child's age and family background;
  - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
  - c. A child's individual pattern and timing of growth, personality, and learning style.
12. "De-escalation" means a method of verbal communication or non-verbal signals and actions, or a combination of signals and actions, that interrupts a child's behavior crisis and calms the child.
13. "DHS" means the Department of Health Services.
14. "Discipline" means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to generally accepted levels of social behavior.
15. "Exploitation" means the act of taking advantage of, or making use of a child selfishly, unethically, or unjustly for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.
16. "Foster care requirements" mean the standards for lawful operation of a foster home as prescribed in A.R.S. § 8-501 et seq. and 6 A.A.C. 5, Article 58.
17. "Household" means a group of people who regularly occupy a single residence.
18. "Household member" means a person who resides in an applicant's or foster parent's household for 21 consecutive days or longer, or who resides in the household periodically throughout the year for more than a total of 21 days.
19. "In-home respite foster parent" means an individual licensed to provide respite care in a licensed family foster home that is not that individual's own home.
20. "License" means a document issued by the Licensing Authority to a foster parent which authorizes the foster parent to operate a foster home in compliance with foster care requirements.
21. "Licensed medical practitioner" means a person who holds a current license or certification as a physician, surgeon, nurse practitioner or physician's assistant pursuant to A.R.S. §§ 32-1401 et seq., Medicine and Surgery; §§ 32-1800 et seq., Osteopathic Physicians and Surgeons; §§ 32-2501 et seq., Physician's Assistant; and A.R.S. §§ 32-1601 et seq. Nursing and A.A.C. R4-19-503, Registered Nurse Practitioner.

22. "Licensing agency" means a person who or an entity which performs an investigative family study of an applicant for an initial or renewal foster home license, as prescribed in R6-5-5803 and R6-5-5812, and which monitors the foster home, as prescribed in R6-5-5815. "Licensing agency" includes the Department and may include county probation departments.
23. "Licensing Authority" means a DES administrative unit which makes foster home licensing determinations, including issuance, denial, suspension, revocation, and imposition of corrective action.
24. "Maltreatment" means abuse, neglect, exploitation, or abandonment, of a child.
25. "Mechanical restraint" means:
  - a. An article, device, or garment that:
    - i. Restricts a child's freedom of movement or a portion of a child's body;
    - ii. Cannot be removed by the child; and
    - iii. Is used for the purpose of limiting the child's mobility;
  - b. But does not include an orthopedic, surgical, or medical device which allows a child to heal from a medical condition or to participate in a treatment program.
26. "Neglect" has the same meaning ascribed to it in A.R.S. § 8-546(A)(7).
27. "Parent or parents" means the natural or adoptive parents of the child. A.R.S. § 8-501(A)(8).
28. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement, but does not include the firm but gentle holding of a child with no more force than necessary to protect the child or others from harm.
29. "Professional foster care" means a foster family based model of care provided by an individual who has received specialized training to provide care and services within a support system of clinical and consultative services to special care children.
30. "Professional foster home" means the licensed foster home of an individual or couple authorized to provide professional foster care.
31. "Receiving foster home" means a licensed foster home suitable for immediate placement of children when taken into custody or pending medical examination and court disposition. A.R.S. § 8-501(A)(9).
32. "Respite care" means the provision of short term care and supervision of a foster child to temporarily relieve a foster parent from the duty to care for the child.
33. "Respite foster parent" means a licensed foster parent authorized to provide respite care.
34. "Safeguard" means to take reasonable measures to eliminate the risk of harm to a foster child and to ensure that a foster child will not be harmed by a particular object, substance, or activity. Where a specific method is not otherwise prescribed in this Article, safeguarding may include:
  - a. Locking up a particular substance or item;
  - b. Putting a substance or item out of the reach of a child who is not mobile; or
  - c. Erecting a barrier which prevents a child from reaching a particular place, item, or substance;
  - d. Mandating the use of protective safety devices; or
  - e. Providing supervision.
35. "Service team" means the group of persons listed in R6-5-5828(A) who participate in the development and review of a child's case plan.
36. "Significant person" means a person who is important or influential in a child's life and may include a family member or close friend.
37. "Sleeping area" means a single bedroom or a cluster of two or more bedrooms located in an adjacent area of a dwelling.
38. "Special care child" means a foster child who has not achieved expected norms for the child's developmental stage in one or more of the following areas: physical, medical, mental, psychological, intellectual, emotional, and social. This includes a child who experiences difficulty in establishing or maintaining developmentally appropriate interpersonal relationships.
39. "Swimming pool" means any natural or man-made body of water used for swimming, recreational, or decorative purposes, which is greater than 12 inches in depth, and includes spas and hot tubs.
40. "Work day" means Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding Arizona state holidays.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5801 repealed, new Section R6-5-5801 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5801 repealed, new Section R6-5-5801 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5802. Application for Initial License

- A. A person who wishes to become licensed as a foster parent shall apply to a licensing agency on a form specified by the licensing agency.
- B. An applicant shall provide the licensing agency with at least the following information on each applicant:
  1. Personally identifying information, including:
    - a. Name,
    - b. Date of birth,
    - c. Social Security number,
    - d. Ethnicity,
    - e. Telephone number,
    - f. Current address,
    - g. Length of Arizona residency, and
    - h. Current marital status and marital history;
  2. Personally identifying information on the applicant's household members, including:
    - a. Name,
    - b. Date of birth,
    - c. Social Security number, and
    - d. Relationship to applicant;
  3. Personally identifying information on the applicant's children who do not live with the applicant, including emancipated children, as follows:
    - a. Name,
    - b. Current address,
    - c. Telephone number, and
    - d. Date of birth;
  4. The applicant's monthly or yearly household budget, showing assets, obligations, debts, and income;
  5. Medical statements for the applicant and any adult household member who will regularly care for foster children, showing that the applicant and household member meet the requirements prescribed in R6-5-5823(4); the statement shall:
    - a. Include a description of the person's general health, and identify any medical problem or physical condition that will prevent or limit the person from caring for a foster child, or that may negatively impact a foster child;

- b. Include a list of all regularly prescribed medications and the purpose of each medication; and
    - c. Be signed and dated by a licensed medical practitioner who shall have examined the person within six months prior to the date of application for licensure;
  - 6. Immunization records for each child household member;
  - 7. A current statement and history of physical and mental health and treatment on the applicant and the applicant's household members, to the extent that such information has not already been provided in response to subsections (B)(5) and (6); the statement and history may be a self-declaration of illness and treatment;
  - 8. Employment information, including names and addresses of prior employers and positions held during the last 10 years;
  - 9. Family relationship and support system information on the applicant's family and family of origin;
  - 10. If the applicant is employed outside the home, the applicant shall provide a statement explaining the child care arrangements the applicant would make for a foster child during the applicant's working hours;
  - 11. If the applicant is self employed, or conducts a business activity within the home, a statement explaining how the activities related to this business will not interfere with the care of a foster child;
  - 12. A description of:
    - a. The applicant's daily routine and activities; and
    - b. The applicant's hobbies, and any education or volunteer activities in which the applicant regularly participates;
  - 13. A description of any spiritual or religious beliefs and practices observed in the applicant's home;
  - 14. Information on administrative or judicial proceedings in which the applicant has been or is a party, including:
    - a. Proceedings involving allegations of child maltreatment;
    - b. Dependency actions;
    - c. Actions involving severance or termination of parental rights;
    - d. Child support enforcement proceedings;
    - e. Adoption proceedings;
    - f. Criminal proceedings other than minor traffic violations;
    - g. Bankruptcy; and
    - h. Suspension, revocation, or denial of a license or certification;
  - 15. The name, address, and telephone number of at least five references who can attest to the applicant's character and ability to care for children; no more than two of the references may be related to the applicant by blood or marriage; for married applicants, at least two of the five references shall know the applicants as a couple;
  - 16. A description of the applicant's home and neighborhood;
  - 17. A statement from the applicant as to:
    - a. The number of foster children the applicant would consider for placement; and
    - b. The characteristics of foster children the applicant would consider for placement; and
    - c. The characteristics of children, if any, for whom the applicant does not want to provide foster care;
  - 18. A description of the applicant's prior experience, if any, as a foster parent, including:
    - a. The state in which the applicant provided foster care;
    - b. Whether the applicant was licensed, certified, or approved to provide care; and
    - c. Whether any disciplinary action was taken against the applicant;
  - 19. A description of the applicant's prior history of adoption certification, if any, including prior applications for certification, and the location and date of any certification denials;
  - 20. A description of the applicant's child care experience and child rearing practices;
  - 21. A statement from the applicant regarding the applicant's motivation for becoming a foster parent;
  - 22. A statement from the applicant describing how all other household members feel about the decision to foster children;
  - 23. A statement authorizing the licensing agency and the Licensing Authority to:
    - a. Verify the information contained in or filed with the application;
    - b. Perform background checks on the applicant and the applicant's household members, as prescribed in R6-5-5803 and R6-5-5807; and
    - c. Arrange for DHS to conduct a health and safety inspection of the applicant's home, as prescribed in A.R.S. § 8-504 and R6-5-5804;
  - 24. A statement from the applicant attesting to the truth of the information contained in the application; and
  - 25. The applicant's signature and date of application.
- C. The applicant and all adult household members shall also submit to fingerprinting and a criminal history check as prescribed in A.R.S. § 46-141 and this subsection.
- 1. On a form provided by the Department, the applicant and each adult household member shall certify whether he or she has ever committed, is awaiting trial for, or has ever been convicted of any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
    - a. Sexual abuse of a minor or vulnerable adult;
    - b. Incest;
    - c. First or second degree murder;
    - d. Kidnapping;
    - e. Arson;
    - f. Sexual assault;
    - g. Sexual exploitation of a minor or vulnerable adult;
    - h. Commercial sexual exploitation of a minor or vulnerable adult;
    - i. Felony offenses within the previous 10 years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs;
    - j. Robbery;
    - k. A dangerous crime against children as defined in A.R.S. § 13-604.01;
    - l. Child abuse or abuse of a vulnerable adult;
    - m. Sexual conduct with a minor;
    - n. Molestation of a child or vulnerable adult;
    - o. Voluntary manslaughter; and
    - p. Aggravated assault.
  - 2. On a form provided by the Department, the applicant and each adult household member shall certify whether he or she has ever been convicted of, found by a court to have committed, or has committed, any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
    - a. A sex offense;
    - b. A drug-related offense;
    - c. A theft-related offense;

- d. A violence-related offense;
  - e. Child neglect or neglect of a vulnerable adult; and
  - f. Contributing to the delinquency of a minor.
- D.** If an applicant applies to the Department as the licensing agency, the Department shall send the applicant a notice of administrative completeness or deficiencies, as prescribed by A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package as described in R6-5-5806. The Department shall send the notice after receiving the application and before expiration of the administrative completeness review time-frame described in R6-5-5813(2)(a).
- E.** If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Department may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5802 repealed, new Section R6-5-5802 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5802 repealed, new Section R6-5-5802 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5803. Investigation of the Applicant

- A.** The licensing agency to which the applicant has applied shall investigate the applicant. Except as otherwise provided in subsection (E) for an in-home respite foster parent, the investigation shall include the measures listed in this Section.
1. A representative of the licensing agency shall personally interview the applicant and the applicant's household members; the interviews shall:
    - a. Occur on at least two separate occasions, at least one of which shall take place at the applicant's residence;
    - b. Comprise no less than four hours of face-to-face contact, at least one hour of which shall be at the applicant's residence;
    - c. Include at least one separate interview with each member of the applicant's household who is age 5 or older; and
    - d. Include at least one joint interview with both applicants if the applicants are married.
  2. During the interviews described in subsection (A)(1), the investigator shall explore any instances of family problems and how the applicant has overcome problems in the applicant's current family and family of origin.
  3. The licensing agency shall obtain written statements from at least three of the applicant's personal references listed under R6-5-5802(B)(15) and shall personally contact (either in a face-to-face meeting or a telephone call) at least one of the references.
  4. The licensing agency shall verify the applicant's financial condition through a review of one or more of the documents listed in subsection (B)(8).
  5. The licensing agency shall investigate and evaluate the applicant's past experiences, if any, serving as a foster parent.
  6. The licensing agency shall assess the applicant and the family's commitment to providing foster care, and the time available to devote to the care of a foster child.
- B.** The licensing agency shall request, and the applicant shall provide, supporting documentation the licensing agency deems necessary to determine an applicant's fitness to serve as a foster parent and ability to comply with foster care requirements. The documentation may include the following:

1. A physician's statement regarding the physical health or immunization record of the applicant's household members;
  2. A statement from a psychiatrist or psychologist regarding the mental health of the applicant or the applicant's household members;
  3. Birth certificate;
  4. Marriage license;
  5. Driver's license and automobile registration;
  6. Dissolution or divorce papers and orders, including child support documentation;
  7. Military discharge papers;
  8. Tax returns, pay stubs, W-2 statements, and existing financial statements;
  9. Bankruptcy papers;
  10. Insurance policy information;
  11. Immigration or legal residency registration papers; and
  12. Documents related to or filed in judicial or administrative proceedings listed under R6-5-5802(B)(14).
- C.** Except as otherwise provided in subsection (E), the licensing agency shall verify that the applicant and adult household members have submitted a fingerprinting and criminal background form as prescribed in R6-5-5802(C).
- D.** The licensing agency shall document all personal contacts made, and all information obtained during the investigation.
- E.** When a person is seeking licensure solely as an in-home respite foster parent, the licensing agency is not required to:
1. Interview the applicant's spouse and other household members;
  2. Conduct the applicant's interview at the applicant's home;
  3. Verify the applicant's financial condition as required by subsection (A)(4) and R6-5-5805(B)(7);
  4. Obtain supporting documentation for the applicant's spouse or other household members as required by this Section; or
  5. Document information on the applicant's spouse and household members in the investigative report or application package as required by R6-5-5805 and R6-5-5806.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Amended effective August 15, 1979 (Supp. 79-4). Former Section R6-5-5803 repealed, new Section R6-5-5803 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5803 repealed, new Section R6-5-5803 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5804. Inspection of the Foster Home; DHS Inspection Report

- A.** The licensing agency shall contact the Department of Health Services (DHS) to request that a DHS representative:
1. Inspect the foster home, as prescribed in A.R.S. § 8-504 and this Section; and
  2. Issue a report describing whether the foster home satisfies foster care requirements.
- B.** The applicant shall cooperate with the DHS representative by making the home available for inspection and allowing the DHS representative unrestricted access to the entire foster home and the surrounding premises to perform the following checks on the systems, equipment, and conditions:
1. Check the home's heating, cooling, ventilation and lighting systems, and major appliances;
  2. Look at furniture, fixtures, and equipment for evidence of loose hardware, rusting parts, and other damage;
  3. Check walls, ceilings, and floors for evidence of flaking paint or plaster, loose tiles, boards, and panels, and

- exposed or unsafe wiring that may pose a danger or health risk to a child;
- 4. Check the home and surrounding premises for evidence of dirt, animal waste, and vermin;
- 5. Check whether the sewage disposal system functions and is in good repair;
- 6. Check the system, method, and timing for refuse and waste storage and removal;
- 7. Check whether dangerous objects, materials, or conditions, have been locked, safeguarded, or removed as prescribed in this Article;
- 8. Determine whether the home has the equipment and space prescribed in R6-5-5838 through R6-5-5846.
- C. The DHS representative shall prepare a written report of the inspection and send a copy to the licensing agency.
- D. To determine if a foster home and its surrounding premises are safe, sanitary, and in good repair, the licensing agency or Licensing Authority shall evaluate the DHS written report to determine whether the home has any natural or man-made conditions that pose a risk of harm to a foster child, and whether a foster parent has taken or can take reasonable measures to eliminate that risk of harm and ensure that a foster child will not be harmed by a particular object, substance, or activity.
- E. This Section does not apply to a person seeking licensure solely as an in-home respite foster parent.
- 9. The DHS report on the foster home and whether the applicant has corrected any deficiencies or problems noted in the report.
- C. The investigative summary shall specifically note any instances where an applicant has been:
  - 1. Charged with, been convicted of, pled no contest to, or is awaiting trial on charges of an offense listed in R6-5-5802(C); and
  - 2. A party to an action for dependency or termination of parental rights.
- D. R6-5-5805(B)(3), (7), and (9) do not apply to a person seeking licensure solely as an in-home respite foster parent.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5805 repealed, new Section R6-5-5805 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5805 repealed, new Section R6-5-5805 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5806. Complete Application Package: Contents

- A. The licensing agency shall send a complete application package to the Licensing Authority for consideration.
- B. A complete application package includes the following:
  - 1. A copy of the applicant's completed application form and criminal history certification form containing the information prescribed in R6-5-5802(B) and (C);
  - 2. The investigative report, as prescribed in R6-5-5805;
  - 3. Evidence that the applicant and adult household members have been fingerprinted and their fingerprints subjected to a criminal history check;
  - 4. Evidence that the applicant has completed the training prescribed by A.R.S. § 8-509(B) and R6-5-5825(A), or a statement of hardship as prescribed in R6-5-5810; and
  - 5. Evidence that the applicant's dwelling has passed the health and safety inspection prescribed by A.R.S. § 8-504 and R6-5-5804.
- C. Upon receipt of an application package from a licensing agency other than the Department, the Licensing Authority shall:
  - 1. Determine whether the application is complete; and
  - 2. Send the applicant and the licensing agency a notice of administrative completeness or deficiencies, as prescribed by A.R.S. § 41-1074, within the administrative completeness review time-frame described in R6-5-5813(1)(a).
- D. If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the licensing agency may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Amended as an emergency effective May 28, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former Section R6-5-5806 repealed, new Section R6-5-5806 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5806 repealed, new Section R6-5-5806 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5807. CPSCR Check; Additional Investigation by Licensing Authority

- A. The Licensing Authority shall conduct a CPSCR check on the applicant and, with the exception of an in-home respite foster parent applicant, on all household members for reports of child maltreatment.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5804 repealed, new Section R6-5-5804 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5804 repealed, new Section R6-5-5804 adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5805. Investigative Report and Licensing Recommendation

- A. The licensing agency shall summarize the results of the investigation in a written report, which shall include:
  - 1. A recommendation to grant or deny a license;
  - 2. Any recommendations for terms, conditions, or limitations to be placed on the license.
- B. In determining whether to recommend that a license be granted or denied, the licensing agency and Licensing Authority shall consider all information acquired during the investigation, and all factors bearing on the applicant's fitness to foster a child and comply with foster care requirements including:
  - 1. Instances of family problems in the applicant's current family or family of origin, including whether the applicant was maltreated as a child, and the applicant's success in overcoming those problems;
  - 2. The applicant's past history of parenting or caring for children;
  - 3. The length and stability of the applicant's marital relationship, if applicable;
  - 4. The applicant's age and health;
  - 5. Past, significant disturbances or events in the applicant's immediate family, such as involuntary job separation, bankruptcy, divorce, or death of spouse, child, or parent;
  - 6. Past criminal history or record of child maltreatment for the applicant or the applicant's household members;
  - 7. The applicant's financial stability, exclusive of anticipated foster care maintenance payments, and ability to financially provide for a foster child;
  - 8. The applicant's history of providing financial support to the applicant's other children, including compliance with court ordered child support obligations; and

**B.** Upon receipt of a complete application package, as prescribed in R6-5-5806, the Licensing Authority may do additional investigation, as prescribed in this Section, if the Licensing Authority needs additional information in order to determine the applicant's fitness to serve as a foster parent, and ability to comply with foster care requirements.

1. The Licensing Authority may directly obtain information by:
  - a. Interviewing the applicant, either in-person or telephonically;
  - b. Contacting additional references;
  - c. Verifying information provided in the application package, including past history of licensure as a foster parent;
  - d. Visiting the applicant's home; and
  - e. Requesting additional supporting documentation as prescribed in R6-5-5803(B).
2. The Licensing Authority may contact the licensing agency and request that the licensing agency obtain additional information, as prescribed in subsection (B)(1).

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5807 repealed, new Section R6-5-5807 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5807 repealed, new Section R6-5-5807 adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5808. License: Form; Issuance; Denial; Term; Termination**

- A.** Within 30 days of receiving a complete application, the Licensing Authority shall issue a written licensing decision.
1. If the Licensing Authority grants the license, the Licensing Authority shall send the license with the notification letter. The license shall be in the name of the applicant and the foster home location as identified in the application. The license shall specify the number, age, and gender of children the foster home may accept.
  2. The Licensing Authority may place terms on the license as to the type of child the foster home may accept for placement. Such terms may include the following:
    - a. A restriction that the foster home can accept only a specifically named child or specifically named children; and
    - b. A provision that the home can provide a particular service, or accept children with particular behavior problems or physical conditions.
  3. A license for a person being licensed solely as an in-home respite foster parent shall include only the licensee's name and the type of care, but no specific location or other terms.
  4. If the Licensing Authority denies the license, the notice shall include the reasons for the denial, with a statement of the applicant's right to appeal the licensing decision, as prescribed in R6-5-5821.
- B.** A license expires one year from the date of issuance. If a foster parent receives a provisional license as prescribed in R6-5-5810, and the provisional license is converted to a regular license during the licensing year, the regular license shall expire one year from the date the provisional license was issued.
- C.** A foster parent shall not transfer or assign a license. A license expires if the foster parent moves to a different dwelling unless the licensing agency has first notified the Licensing Authority of the planned move or a foster parent has requested an amendment to the license as prescribed in R6-5-5814. This

requirement does not apply to a person licensed solely as an in-home respite foster parent.

- D.** Issuance of a license does not guarantee placement of a foster child.
- E.** A license terminates when:
1. The license expires by its own terms and is not renewed;
  2. The Licensing Authority revokes the license pursuant to disciplinary proceedings as prescribed in R6-5-5819;
  3. The foster parent moves out of state; or
  4. The foster parent voluntarily surrenders the license.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).  
Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5808 adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5809. Provisional License**

Notwithstanding any other provision of this Article, the Licensing Authority may issue a provisional license to a foster parent who has not completed training, when the Licensing Authority makes a finding of hardship as prescribed in A.R.S. § 8-509(D). The Licensing Authority may find a condition of hardship when failure to issue a provisional license would result in displacement of a child or the inability to place a particular child.

1. The term of a provisional license shall not exceed six months,
2. A provisional license is not renewable.

#### Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).  
Amended subsection (G) as an emergency effective March 12, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-2). Amended effective August 15, 1979 (Supp. 79-4). Amended as an emergency effective May 28, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5809 adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5810. Application for License Renewal**

- A.** At least 60 days before the expiration date of a license, the licensing agency shall send a foster parent a notice of license expiration.
- B.** A foster parent may apply to a licensing agency for license renewal by submitting a complete renewal application to the licensing agency at least 30 days before the expiration of the current license.
- C.** A complete renewal application shall contain the following information:
1. A description of any changes to the information provided in the original application or last renewal application, including changes in personal, family, social, medical, or financial circumstances;
  2. At least once every third year following original licensure, a licensed medical practitioner's statement on the physical health of the foster parent and any household members who regularly care for children;
  3. Evidence that the foster parent has obtained the annual training required by A.R.S. § 8-509(C); and
  4. The statements, signature, and date prescribed in R6-5-5802(B)(23) through (25).
- D.** A foster parent shall submit copies of the supporting documents listed in R6-5-5803(B) if so requested by the licensing agency.
- E.** The foster parent and adult household members shall comply with any investigative requirement for fingerprint clearance.



**Historical Note**

Adopted effective March 30, 1977 (Supp. 77-2).  
 Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5809 adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5811. Renewal Investigation; Licensing Report and Recommendation**

- A.** A licensing agency that receives a renewal application shall conduct a face-to-face interview with the foster parent at the foster parent's residence. The licensing agency is not required to conduct the interview of a person licensed solely as an in-home respite foster parent at the person's residence. During the interview, the licensing agency shall discuss the following:
  1. The foster parent's experiences in serving as a foster parent during the expiring licensing year;
  2. Any changes identified in the renewal application; and
  3. Any complaints made against the foster parent during the expiring licensing year.
- B.** The licensing agency shall obtain any supplemental information the agency needs to determine the foster parent's continuing fitness to serve as a foster parent.
- C.** The licensing agency shall request a statewide criminal history records information check every year for the foster parent and, with the exception of an in-home respite foster parent, all adult household members.
- D.** The licensing agency shall request that DHS perform a health and safety inspection of the foster parent's home, as prescribed in R6-5-5804, at least once every third year following original licensure. This inspection is not required of a person licensed solely as an in-home respite foster parent.
- E.** The licensing agency shall summarize the results of the renewal investigation in a report and make a licensing recommendation as prescribed in R6-5-5805. The report shall explain any complaints, as described in R6-5-5816, R6-5-5817, and R6-5-5818, made against the foster parent during the expiring license period.
- F.** No less than 15 working days before the date that the applicant's current license expires, the licensing agency shall provide the Licensing Authority with a complete renewal application as prescribed in R6-5-5810, and the agency's renewal investigation report as prescribed in R6-5-5811.

**Historical Note**

Adopted effective March 30, 1977 (Supp. 77-2).  
 Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5811 adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5812. Renewal License**

- A.** The Licensing Authority shall process a renewal application package following the procedures described in R6-5-5806(C), R6-5-5807, and R6-5-5808.
- B.** In determining whether to renew a license, the Licensing Authority shall consider the renewal application package, and the foster parent's past record of service, including conduct during all prior licensing periods.
- C.** The Licensing Authority may renew a foster parent's license when the foster parent:
  1. Demonstrates the ability to fulfill foster care requirements,
  2. Has complied with foster care requirements during prior licensing periods, and
  3. Has cooperated with the licensing agency in providing the information required for license renewal.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5813. Licensing Time-frames**

For the purpose of A.R.S. § 41-1073, the Department has adopted the licensing time-frames listed in this Section.

1. Initial applications submitted to a licensing agency other than the Department: When a person applies for foster parent licensure through a licensing agency other than the Department, and the licensing agency submits the completed application package to the Licensing Authority on behalf of the applicant, the licensing time-frames are:
  - a. Administrative completeness review time-frame: 30 days;
  - b. Substantive review time-frame: 30 days; and
  - c. Overall time-frame: 60 days.
2. Initial application submitted to the Department as the licensing agency: When a person applies directly to the Department for foster parent licensure, and the Department performs the activities described in R6-5-5803 through R6-5-5806, the licensing time-frames are:
  - a. Administrative completeness review time-frame: 90 days;
  - b. Substantive review time-frame: 30 days; and
  - c. Overall time-frame: 120 days.
3. Renewal applications submitted to a licensing agency other than the Department: When a person applies for renewal of a foster parent license through a licensing agency other than the Department, and the licensing agency submits the completed renewal application package to the Licensing Authority on behalf of the applicant, the licensing time-frames are:
  - a. Administrative completeness review time-frame: 21 days;
  - b. Substantive review time-frame: 21 days; and
  - c. Overall time-frame: 42 days.
4. Renewal applications submitted to the Department as the licensing agency: When a person applies directly to the Department for renewal of a foster parent license, and the Department performs the activities described in R6-5-5812, the licensing time-frames are:
  - a. Administrative completeness review time-frame: 40 days;
  - b. Substantive review time-frame: 20 days; and
  - c. Overall time-frame: 60 days.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5814. Amended License; Change in Household Members**

- A.** The following changes require a license amendment:
  1. A change in any circumstances or conditions placed on the license, as prescribed in R6-5-5808(A)(2);
  2. Expanded or reduced capacity of the foster home;
  3. A move to a different residence;
  4. The divorce of the foster parent, if the divorce changes any circumstance or condition placed on the license;
  5. Marriage of the foster parent;
  6. The death of the foster parent's spouse if the death changes any circumstance or condition placed on the license; and
  7. A change of name.
- B.** The foster parent may request a license amendment or the licensing agency may initiate the amendment in response to an observed change. The Licensing Authority may issue an amended license to reflect a change in circumstances when the change does not cause the foster parent or foster home to fall out of compliance with foster care requirements.

- C. If the foster parent has moved to a different residence or remodeled an existing residence, the Licensing Authority shall not issue an amended license until the different or remodeled residence has passed a health and safety inspection as prescribed in R6-5-5804.
- D. An amended license expires at the end of the foster parent's current licensing year.
- E. If the foster parent adds a household member during the course of a licensing year, the foster parent shall:
  - 1. Obtain prior approval from the licensing agency;
  - 2. Ensure that a new adult household member submits a criminal history certification and submits to fingerprinting as prescribed in R6-5-5802(C), within 10 work days of the member's arrival;
  - 3. Ensure that a new child household member obtains any missing, routine immunizations within 30 calendar days of the member's arrival; and
  - 4. Cooperate in additional interviews and submit additional documentation that the licensing agency or Licensing Authority may require to determine whether the addition of the new member will cause the foster parent to fall out of compliance with foster care requirements.
- F. In determining whether to approve the addition of the new household member, the licensing agency shall consider:
  - 1. The relationship of the new household member to the foster parent;
  - 2. The length of time the foster parent has known the new household member;
  - 3. The background of the new household member including any criminal history;
  - 4. The financial arrangements, if any, between the foster parent and the new household member;
  - 5. What, if any, child care responsibilities the new household member may have;
  - 6. Whether the new household member has any physical or emotional conditions that present a risk to foster children and current household members; and
  - 7. Whether the home will still meet the equipment and space requirements prescribed in R6-5-5838 through R6-5-5846 with the additional of the new household member.
- G. If the foster parent marries during the course of a licensing year:
  - 1. The foster parent's spouse shall submit an application for a license as prescribed in R6-5-5802 and R6-5-5803;
  - 2. The foster parent's spouse shall be investigated in accordance with R6-5-5803, R6-5-5805, R6-5-5806, R6-5-5807, R6-5-5823, and R6-5-5824; and
  - 3. The foster parent shall comply with subsection (E) and with subsection (C) if the foster parent moves.
- H. A person licensed solely as an in-home respite foster parent is exempt from the requirements of subsections (B)(2) and (3), (C), (E), (F), and (G).
- 4. A review of any records a foster parent is required to maintain.
- C. A foster parent shall cooperate with monitoring requirements by:
  - 1. Making the foster home available for inspection, and
  - 2. Participating in interviews and permitting interviews with household members.
- D. When a licensing agency finds a violation of a foster home requirement, the licensing agency shall orally notify the Licensing Authority of the violation, and shall follow the oral report with a written report that shall include a recommendation for any licensing action or a corrective action plan, as prescribed in R6-5-5818 and R6-5-5819.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5816. Investigation of Complaints About a Foster Home

- A. When a licensing agency receives a complaint about a foster home or licensee, the licensing agency shall:
  - 1. Immediately report allegations of child abuse, neglect, or maltreatment to Child Protective Services Central Intake as prescribed in A.R.S. § 13-3620; and
  - 2. Report all complaints to the Licensing Authority within five days and investigate all complaints, not reported to CPS, as prescribed in this Section.
- B. An investigation may include:
  - 1. Interviews with the complaining party and members of the foster home;
  - 2. Inspections of the foster parent's records and documents related to the issues raised in the complaint;
  - 3. Interviews of witnesses to the matters at issue; and
  - 4. Any other activities necessary to substantiate or refute the complaint.
- C. The licensing agency shall complete the investigation within 60 days. If the investigation cannot be completed within 60 days, the licensing agency shall notify the Licensing Authority and provide a date for completion of the investigation.
- D. When the investigation is completed, the licensing agency shall send the Licensing Authority a written summary of the results.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5817. Licensing Authority Action On Complaints

After the licensing agency reports the results of its investigation, the Licensing Authority shall determine what action to take against a licensee, as prescribed in this Section.

- 1. If the licensee did not violate foster care requirements, the Licensing Authority shall take no further action.
- 2. If the licensee violated a foster care requirement, but has corrected the problem giving rise to the violation, the Licensing Authority shall record the incident in the licensing file, and may take no further action.
- 3. If the licensee violated a foster care requirement and there is reasonable cause to believe that the licensing violation is continuing or may reoccur, the Licensing Authority shall take licensing action as prescribed in R6-5-5819, or require corrective action as prescribed in R6-5-5818.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5818. Corrective Action

- A. If a deficiency giving rise to a substantiated complaint is correctable within a specified period of time and does not jeopardize the health or safety of a foster child, the Licensing

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5815. Monitoring the Foster Home and Family

- A. A licensing agency shall monitor its foster homes.
- B. Monitoring activities may include the following:
  - 1. Announced and unannounced visits to the foster home;
  - 2. Interviews with the foster parent and household members over age 5;
  - 3. Interviews with foster children placed with a foster parent, if developmentally appropriate; any interviews with a foster child may occur with the foster child separated from the foster parent; and

Authority, in consultation with the licensing agency, may place the foster parent on a corrective action plan to remedy the deficiency.

**B.** In determining whether to require corrective action, the Licensing Authority shall consider the following criteria:

1. The nature of the violation;
2. Whether the violation can be corrected;
3. Whether the foster parent understands the violation and shows a willingness and ability to participate in corrective action;
4. The length of time required to implement corrective action;
5. Whether the same or similar violations have occurred on prior occasions;
6. Whether the foster parent has had prior corrective action plans, and, if so, the foster parent's success in achieving the goals of the plan;
7. The foster parent's history as a foster parent; and
8. Other similar or comparable factors demonstrating the foster parent's ability and willingness to follow through with a corrective action plan and avoid future violations.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5819. License Denial, Suspension, and Revocation**

**A.** The Licensing Authority may deny, suspend, or revoke a license when:

1. An applicant or licensee has violated or is not in compliance with foster care requirements, Arizona state or federal statutes, or city or county ordinances or codes;
2. An applicant or licensee refuses or fails to cooperate with the Licensing Authority in providing information required by these rules or any information required to determine compliance with these rules;
3. An applicant or licensee misrepresents or fails to disclose material information to the Licensing Authority, the licensing agency, or a placing agency regarding qualifications, experience, or performance of duties;
4. An applicant or licensee is unable to meet the physical, emotional, social, educational, or psychological needs of children; or
5. A licensee fails to comply with a corrective action plan.

**B.** In determining whether to take disciplinary action against a licensee, or to grant or renew a license, the Licensing Authority may consider the applicant or licensee's past history from other licensing periods, and shall consider a repetitive pattern of violations of applicable child welfare or foster care rules or statutes, as evidence that a license applicant or licensee is unable or unwilling to meet the needs of children.

**C.** The Licensing Authority shall deny a license when an applicant, licensee, or household member has been convicted of or is awaiting trial on the criminal offenses listed in R6-5-5802(C)(1) in Arizona or the same or similar offenses in other jurisdictions.

**D.** The Licensing Authority may deny a license when an applicant, licensee, or household member has been convicted of, found by a court to have committed, or is reasonably believed to have committed any criminal offense, other than those listed in R6-5-5802(C)(1). To determine whether the criminal history of an applicant, licensee, or household member affects a person's fitness to be a licensee, the Licensing Authority shall consider all relevant factors, including the following:

1. The extent of the person's criminal record;
2. The length of time which has elapsed since the offense was committed;

3. The nature of the offense;
4. The mitigating circumstances surrounding the offense;
5. The degree of participation by the person in the offense;
6. The extent of the person's rehabilitation, including:
  - a. Completion of probation or parole;
  - b. Whether the person has made restitution or paid compensation for the offense;
  - c. Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling; and
  - d. Personal references attesting to the person's rehabilitation.

**E.** The Licensing Authority may deny, suspend, or revoke a license if the applicant, licensee, or household member is, or resides with, a person who has a record of substantiated or undetermined child maltreatment in this state or any other jurisdiction. To determine whether an applicant, licensee, or household member's history of child maltreatment affects a person's fitness to serve as a foster parent, the Licensing Authority shall consider all relevant factors, including, but not limited to, the following:

1. Whether the person was subjected to child maltreatment in his or her family of origin;
2. The extent of the person's child maltreatment record;
3. The length of time which has elapsed since the maltreatment occurred;
4. The nature of the maltreatment;
5. The circumstances surrounding the maltreatment;
6. The degree to which the person participated in the maltreatment;
7. The extent of the person's rehabilitation;
8. Whether the person is on probation or parole; and
9. Whether legal proceedings were initiated as a result of the maltreatment.

**F.** The person seeking to establish fitness to be a licensee under subsection (D) has the burden of proving mitigating circumstances, indirect involvement, and the completion of probation or parole.

**G.** The Licensing Authority shall not deny, suspend, or revoke the license of an in-home respite foster parent based on the actions of the foster parent's household members as identified in (C), (D), and (E) unless such actions interfere with the foster parent's ability to comply with this Article or relate to any child for whom the foster parent provides respite care.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5820. Adverse Action; Notice; Effective Date**

**A.** When the Licensing Authority denies, suspends, or revokes a license, the Licensing Authority shall send a written, dated notice of the action by certified mail to:

1. The applicant or licensee;
2. The licensing agency; and
3. The placing agency for any child placed with the licensee at the time of the action.

**B.** The notice shall specify:

1. The action taken and the date the action will be effective;
2. A citation to the legal authority, and a description of the reasons supporting the action; and
3. The procedures by which the applicant or licensee may contest the action taken, and the time periods in which to do so.

**C.** A revocation is effective:

1. Twenty-one days after the postmark date of the revocation notice; or

2. If the licensee appeals the revocation, on the date that an administrative hearing officer issues a written decision affirming the revocation.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5821. Appeals**

- A. An applicant or licensee may appeal the denial, suspension, or revocation of a license as prescribed in 6 A.A.C. 5, Article 75. Imposition of a provisional license or a corrective action plan is not appealable.
- B. To appeal, an applicant or licensee shall file a written notice of appeal with the Licensing Authority no later than 20 days from the date of the notice prescribed in R6-5-5820(A) and (B).
- C. The notice of appeal shall specify the action being appealed and a statement of why the Licensing Authority's action was wrong.
- D. Appeals from the decision of a hearing officer are governed by A.R.S. §§ 41-1992(D) and 41-1993 and A.A.C. R6-5-7518 through R6-5-7520.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

Amended June 4, 1998 (Supp. 98-2).

**R6-5-5822. Alternative Methods of Compliance**

- A. The Licensing Authority, in consultation with the Attorney General's office, may substitute an alternative method of compliance for a foster care requirement contained in this Article and not otherwise required by law if the following conditions are met:
  1. The Licensing Authority, in consultation with the licensing or placing agency, determines that placement in the foster home requesting an alternative method of compliance is in the best interests of a particular foster child; and
  2. The purpose of the requirement being replaced is fulfilled through the alternative method of compliance.
- B. If the Licensing Authority approves an alternative method of compliance for a foster care requirement contained in this Article, the Licensing Authority shall make written findings of fact and conclusions explaining how the requirements of subsection (A) are met.
- C. The Licensing Authority has no obligation to approve an alternative method of compliance and shall consider the particular facts and circumstances of each case when making such a determination.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5823. Foster Parent: General Qualifications**

To qualify for and maintain licensure as a foster parent, a person shall meet the criteria listed in this Section.

1. The person shall be at least 21 years old at the time of application.
2. The person shall have sufficient income, exclusive of the foster care maintenance payment, to meet the needs of the foster parent and the foster parent's own children and household members.
3. The applicant, foster parent, and adult household members shall be free of conviction or indictment for, or involvement in the criminal offenses listed in R6-5-5802(C).
4. The applicant, foster parent, and household members shall not have any physical or mental health conditions which preclude compliance with foster care requirements.

5. Each child residing in the foster home shall have all childhood immunizations appropriate to the child's age and health.
6. An applicant or foster parent shall not:
  - a. Conduct home business activities which prevent the applicant or foster parent from caring for a foster child in accordance with foster care requirements; or
  - b. Provide foster care for adults.
7. An applicant's or foster parent's household members shall agree to and support the decision to provide foster care.
8. An applicant or foster parent shall:
  - a. Cooperate with the licensing agency, the placing agency, and the Licensing Authority regarding any inspections or investigative activities; and
  - b. Provide information as prescribed in this Article.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5824. Foster Parent: Personal Characteristics**

To qualify for and maintain licensure as a foster parent, a person shall be a responsible, stable, emotionally mature individual who can exercise sound judgment. A person meets this requirement by demonstrating the following characteristics on the person's application and during the interview and investigation process:

1. The ability to realistically determine which foster children the person can accept, work with, and successfully integrate into the person's family;
2. Knowledge of child development, nutrition, health, and the various experiences a child may have, with which the foster parent may need assistance and guidance;
3. The willingness and ability to protect children from harm;
4. Knowledge and understanding of child discipline and ways of helping a child build positive personal relationships;
5. The following personal attributes:
  - a. The capacity to give and receive affection;
  - b. Enjoyment in being a parent or foster parent;
  - c. Flexibility in expectations, attitudes, behavior, and use of help when it is needed;
  - d. The ability to deal with separation, loss, frustration, and conflict;
6. The capacity to respect persons with differing life styles and philosophies, and persons of different races, cultures, and religious beliefs;
7. The ability to accept a foster child's relationship with the child's parent and birth family; and
8. The willingness and ability to commit the time necessary to provide a foster child with supervision and guidance in accordance with foster care requirements and a foster child's individual needs.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5825. Training and Development**

- A. Before receiving an initial license, an applicant shall complete at least 12 clock hours of initial foster parent training as prescribed in A.R.S. § 8-509(B). The training shall cover at least the following subjects:
  1. Characteristics and needs of children who may be placed in the foster home;
  2. The role of the foster parent as a member of the care and treatment team;
  3. The importance of birth parent and family involvement in a child's life;

4. Methods for appropriately addressing the cultural, ethnic, and religious needs of a child in care;
  5. Attachment, separation, and loss issues for children and families;
  6. Behavior management policies and practices as prescribed in R6-5-5833;
  7. Confidentiality;
  8. Emergency procedures;
  9. Resources and supportive services available to foster children and foster parents;
  10. Foster care payment procedures;
  11. Placing agency and Licensing Authority contact persons and procedures;
  12. The impact of fostering on the foster parent and the foster parent's own family;
  13. Addressing and coping with the impacts described in subsection (A)(12);
  14. Specialized topics related to child welfare, health, growth, or development; and
  15. The Indian Child Welfare Act of 1978 (PL 95-608).
- B.** Each licensing year, prior to license renewal, a foster parent shall attend and complete at least six clock hours of ongoing training as prescribed in A.R.S. § 8-509(C). Annual training may include:
1. Advanced training in the subjects listed in subsection (A);
  2. Special subjects relating to child health, growth, or development, including:
    - a. Child management techniques based on the developmental needs of children in care;
    - b. Discipline, crisis intervention, and behavior management techniques; and
  3. Review of placing agency policies.
- C.** An applicant or licensee shall also complete any additional training required by the Licensing Authority, or the foster parent's licensing agency or placing agency to develop specialized skills and to meet or maintain compliance with foster care requirements.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5826. Compliance With Licensing Limitations; Adult - Child Ratios**

- A.** A foster parent shall limit the number of children in the home as prescribed in subsections (A)(1) and (2). As used in this Section, "children in the home" means any child in the foster home, including children placed for respite care, child care services, or baby-sitting, the foster parent's own children, and children residing in the foster home.
1. At all times, the total number of children in the home who are 5 years old or under shall not exceed more than four in the care of one adult.
  2. At all times, the total number of children in the home who are less than 1 year old, shall not exceed more than two in the care of one adult.
- B.** A foster parent shall not care for more foster children than allowed and identified on the foster parent's license, and shall not exceed five foster children in addition to other children in the home.
- C.** A foster parent shall abide by any terms or conditions placed on the foster parent's license when accepting a child for placement.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5827. Placement Agreement**

- A.** For each child placed with a foster parent the foster parent shall have a written placement agreement meeting the requirements of subsection (B) with the foster child's placing agency.
- B.** The placement agreement shall set forth the responsibilities of both the placing agency and the foster parent regarding:
1. Provision of services for the foster child, including medical care, dental care, mental health care, other social services or treatment, and transportation;
  2. Requirements for interaction with the foster child's birth family.
- C.** If a foster parent does not receive a copy of a placement agreement at the time of placement, the foster parent shall obtain an agreement within five work days following the date of placement. If the placing agency refuses to provide an agreement, the foster parent shall notify the Licensing Authority.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5828. Participation in Case Planning**

- A.** A foster parent is a member of the service team for a foster child in the care of the foster parent. The service team includes the case manager, the foster parent, the licensing agency representative, and persons providing services, such as attorneys, physicians, psychologists, therapists, Court Appointed Special Advocates, and school, law enforcement, and probation personnel.
- B.** A foster parent shall participate as a team member by:
1. Attending team meetings when:
    - a. The foster parent receives reasonable advance notice of the date, time, and place of the meeting; and
    - b. The meetings are held at a time and place which is accessible to the foster parent, and compatible with the foster parent's work schedule and child care schedule;
  2. Participating in team meetings through alternative methods, which may include:
    - a. Telephonic conference calls,
    - b. Submission of oral comments, and
    - c. Expressing concerns and comments to other team members who will attend the meeting;
  3. Reporting to the team on the foster child's progress and problems;
  4. Assisting in development of the case plan; and
  5. Assisting in case plan reviews.
- C.** A foster parent shall implement the case plan by:
1. Performing the tasks assigned to the foster parent in the case plan,
  2. Helping a foster child to attain any goals identified in the case plan,
  3. Assisting a foster child to obtain any services specified in the case plan, and
  4. Observing any limitations or conditions contained in the case plan.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### **R6-5-5829. Daily Care and Treatment of a Foster Child; Foster Child Rights**

- A.** Non-exploitation and equitable treatment
1. A foster parent shall not exploit a foster child or permit a child to be exploited.
  2. A foster parent shall permit a foster child to exercise the rights, freedoms, and responsibilities of family life in a manner that is comparable to those exercised by foster family members, subject to:

- a. Reasonable and developmentally appropriate household rules, and
  - b. Restrictions prescribed in a foster child's case plan and foster care requirements.
- 3. As used in this Section, "reasonable" means conduct which takes into account:
  - a. The foster family's physical environment,
  - b. The chores and responsibilities assigned to other household members,
  - c. The foster child's school schedule and educational needs, and
  - d. The foster child's social and recreational needs.
- B. Religious and ethnic heritage**
  - 1. A foster parent shall recognize, encourage, and support the religious beliefs, cultural and ethnic heritage, and language of a foster child and the child's birth family.
  - 2. A foster parent shall coordinate with the placing agency to provide opportunities for each foster child to participate in religious, cultural, and ethnic activities.
  - 3. A foster parent shall not directly or indirectly compel a foster child to participate in religious activities or cultural and ethnic events against the child's will or the wishes of the child's birth parent.
- C. Interaction with parents and birth family.** A foster parent shall maintain a working relationship with a foster child's parent, birth family, and other significant persons, in accordance with the child's case plan and in cooperation with the placing agency staff.
- D. Food and nutrition**
  - 1. A foster parent shall provide a foster child with well-balanced daily meals and sufficient food to meet the child's nutritional needs.
  - 2. The foster parent shall provide for a foster child's special dietary needs as prescribed in the child's case plan, or the orders of a licensed medical practitioner.
- E. Education**
  - 1. A foster parent shall send a foster child to public school unless alternative educational arrangements, such as private, charter, or home schooling, have been approved in the child's case plan.
  - 2. A foster parent shall help the child in obtaining other educational services as prescribed in the child's case plan.
- F. Clothing**
  - 1. A foster parent shall provide a foster child with clean, seasonal clothing appropriate to the child's age, sex, size, and individual needs.
  - 2. A foster parent shall permit a foster child to participate in making decisions about clothing choices to the extent developmentally appropriate for the child.
- G. Funds**
  - 1. A foster parent shall use monies provided by the placing agency for designated purposes only.
  - 2. A foster parent shall retain receipts to document the use of designated monies except monies designated for room and board.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5830. Medical and Dental Care**

- A.** A foster parent shall arrange for a foster child to have routine medical and dental care which shall include an annual medical exam, semi-annual dental exams, immunizations, and standard medical tests.
- B.** When a foster child is placed with a foster parent, the foster parent shall determine whether the child has had a comprehensive

medical exam within the past two months, and, for a child age 3 or older, a dental exam within the past six months.

- C.** If a foster child has not had the medical or dental exam, the foster parent shall schedule the child for an exam within two weeks after the foster child is placed with the foster parent.
- D.** As used in subsection (B), a comprehensive medical exam shall include:
  - 1. Screening for communicable disease,
  - 2. Screening for vision and hearing,
  - 3. A general physical examination by a licensed physician,
  - 4. Provision of any routine immunizations or immunization boosters, and
  - 5. Tests appropriate for the child's age and history.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5831. Child Care**

- A.** A foster parent shall have a plan for supervision and care of a foster child placed with the foster parent.
- B.** The plan shall be consistent with the foster child's case plan, and with the child's developmental, emotional, and physical needs, and the needs of the foster parent.
- C.** A foster parent shall inform the placing agency and obtain approval for use of any person given the responsibility for care of a foster child, unless otherwise provided for in the child's case plan. The case plan may include the name of a specific child care agency or provider, and may give the foster parent discretion to allow the child to go on overnight visits with specifically named persons.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5832. Transportation**

- A.** A foster parent shall provide or arrange appropriate local transportation to meet the routine educational, medical, recreational, social, spiritual, and therapeutic needs of a foster child, in accordance with the child's case plan, or, if not specified in the case plan, as provided in the placement agreement.
- B.** A foster parent transporting foster children shall have a valid driver's license.
- C.** A foster parent shall provide for the safety of a foster child when the child is transported in a motor vehicle by:
  - 1. Providing and using safety restraints appropriate to the age and weight of each child transported; and
  - 2. Prohibiting the number of persons in any vehicle from exceeding the number of available seats and seat belts in the vehicle.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5833. Behavior Management; Discipline; Prohibitions**

- A.** A foster parent shall set limits and rules for children in care. The foster parent shall tell the children about the foster parent's expectations regarding child behavior, including forbidden conduct, and the foster parent's methods for disciplining children who violate expectations, limitations, and rules.
  - 1. A foster parent shall use discipline which is reasonable, developmentally appropriate, related to the infraction, and consistent with any guidelines in the child's case plan.
  - 2. A foster parent shall use disciplinary methods which help a foster child to build self-control, self-reliance, and self-esteem.
  - 3. A foster parent shall communicate rules, consequences, and disciplinary methods to a foster child in a manner

appropriate to the child's age, developmental capacity, and ability to understand.

4. A foster parent shall explain the foster parent's limits, rules, and expectations to any placing agency or person that places a child with the foster parent.
- B. A foster parent shall not delegate the responsibility for imposing discipline on a foster child to any person other than an adult assigned responsibility for the foster child, as prescribed in R6-5-5831(C), and made known to the child. If a foster parent delegates supervisory responsibility to another person, the foster parent shall instruct the person in the foster home limits, rules, and expectations, disciplinary methods specific to the foster child, and the limitations prescribed in this Article.
- C. A foster parent shall not punish or maltreat a foster child, and shall not allow any other person to do so. As used in this Section, "punishment or maltreatment" include, but are not limited to, the following actions:
  1. Any type or threat of physical hitting or striking inflicted in any manner upon the body;
  2. Verbal abuse, including arbitrary threats of removal from the foster home;
  3. Disparaging remarks about a foster child or a foster child's birth family members or significant persons;
  4. Deprivation of meals, clothing, bedding, shelter, or sleep;
  5. Denial of visitation or communication with a foster child's birth family members and significant persons when such denial is inconsistent with the foster child's case plan;
  6. Cruel, severe, depraved, or humiliating actions;
  7. Locking a foster child in a room or confined area inside or outside of the foster home; and
  8. Requiring a foster child to remain silent or be isolated for time periods that are not developmentally appropriate.
- D. A foster parent shall not use mechanical restraints.
- E. A foster parent shall not use physical restraint unless:
  1. Permission to use physical restraint is specified in the child's case plan; and
  2. The foster parent has been trained in the proper use of the physical restraint to be used with a particular foster child.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5834. Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events

- A. Within two hours after a foster child suffers any of the following events, a foster parent shall notify the child's placing agency:
  1. Death;
  2. Serious illness or injury requiring hospitalization or emergency room treatment;
  3. Any non-accidental injury or sign of maltreatment;
  4. Unexplained absence;
  5. Severe psychiatric episode;
  6. Fire or other emergency requiring evacuation of the foster home;
  7. Removal of a foster child from the foster home by any person or agency other than the placing agency, or attempts at such removal; and
  8. Any other unusual circumstance or incident which might seriously affect the health, safety, or the physical or emotional well-being of a foster child.
- B. Within 48 hours of occurrence, a foster parent shall notify the placing agency of any other events likely to affect the well-being of a foster child in the foster parent's care, including the following circumstances:

1. Involvement of a foster child with law enforcement authorities;
2. Serious illness or death involving a member of the foster family's household or a significant person;
3. Change in foster family or household composition; and
4. Absence of one foster parent from a two-parent household for more than seven continuous days.
- C. Within 24 hours of giving notice as prescribed in subsection (A) or (B), a foster parent shall send the placing agency and licensing agency a written report on the event. The report shall include the following information:
  1. A description of the event, with the date and time of occurrence;
  2. The names and telephone numbers of any persons involved in the event;
  3. Any measures taken to address, correct, or resolve the event, including treatment obtained, and persons notified.
- D. Within two days of receipt of the written report prescribed in subsection (C), the licensing agency shall send the written report to the Licensing Authority.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5835. Notification of Events or Changes Involving the Foster Family or the Foster Home

- A. A foster parent shall notify the licensing agency of any changes in the foster family's composition including, but not limited to the following events:
  1. Marriage;
  2. Divorce;
  3. Addition of a new household member, including a temporary visitor expected to stay one month or longer; and
  4. Death or departure of a current household member.
- B. A foster parent shall notify the Licensing Authority of any substantial changes to the foster home, including:
  1. Fire or emergency requiring evacuation of the foster home;
  2. Moving to a new residence; and
  3. Remodeling the foster home.
- C. When a foster parent has advance knowledge of an event or change listed in subsection (A) or (B), the foster parent shall give reasonable advance notice of the anticipated event or change. Reasonable advance notice means notice which permits the licensing agency time to conduct an inspection, and the Licensing Authority time to issue an amended license, as prescribed in R6-5-5814, without disruption of a placement.
- D. If the event or change is unexpected, a foster parent shall give notice as soon as the event occurs or change is known.
- E. For events or persons not specifically listed in subsection (A) or (B), the foster parent shall give notice within five work days of the event or change.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5836. Maintenance of a Foster Child's Records

- A. A foster parent shall maintain records for each foster child placed with the foster parent in accordance with the placing agency's requirements and this Section.
- B. The foster parent shall ensure that the records include at least the following:
  1. Information on a foster child, the foster child's birth family, and any other significant persons in the foster child's life, if the placing agency has provided such information to the foster parent, as follows:
    - a. Name,
    - b. Address,

- c. Telephone number, and
    - d. A description of the person's relationship to the child.
  - 2. A record of the foster child's contacts with birth family members and other significant persons, including the person contacted, and the date and method of contact (visit, telephone call, or written communication);
  - 3. Medical and health information provided by the placing agency;
  - 4. A consent form or notice from the foster child's guardian authorizing the foster parent to obtain routine, nonsurgical medical care, and emergency medical and surgical treatment for the foster child;
  - 5. A record of the medical and dental care provided to the foster child during the placement, including:
    - a. Date of appointment;
    - b. Description of any illness, injury, or health problem;
    - c. Name, address, and telephone number of the medical practitioner who treated the child; and
    - d. Resulting diagnosis and treatment, any prescribed medications, and any hospitalization;
  - 6. Reports of any medical tests, information, or counseling received regarding routine, emergency, chronic, or handicapping conditions;
  - 7. A copy of the child's current case plan;
  - 8. Any progress notes the foster parent may record;
  - 9. Notations or records of significant incidents, events, and activities;
  - 10. Identification of any schools attended with dates of attendance, any school reports;
  - 11. Memorabilia to help the foster child retain a memory of placement and a life record; the memorabilia may include photographs, diaries, journals, souvenirs, scrapbooks, and art projects;
  - 12. Placement agreement with the placing agency;
  - 13. A clothing inventory (clothing brought with the foster child at the time of placement) and a record of clothing purchased for the child during placement; and
  - 14. At the time of the child's departure from the foster home, a description of the foster child's daily routine and personal preferences and habits such as favorite foods, fears, and bedtime routines.
- C. A foster parent shall provide the record to the placing agency upon termination of the foster child's placement.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5837. Confidentiality**

- A. A foster parent shall maintain the confidentiality of all personally identifiable information about a foster child and a foster child's birth family. A foster parent may release information when so authorized by a foster child's placing agency, and, in an emergency, when release is necessary to protect the health or safety of the child.
- B. A foster parent shall safeguard a foster child's records in a manner that prevents loss, tampering, or unauthorized use.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5838. Foster Home: General Requirements**

- A. The foster home parent shall:
  - 1. Keep the foster home safe, in good repair, and sanitary, as described in R6-5-5804(C) through (E) and R6-5-5838 through R6-5-5846; and

- 2. Keep the outside area around the foster home free from objects, materials, and conditions which constitute a danger to the occupants.

- B. If the foster parent accepts and provides care to a child with special physical needs, the foster parent shall equip the foster home with any equipment needed to accommodate the particular child's special needs.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5839. Foster Home: General Safety Measures**

- A. The foster home shall have a telephone or other mechanical device allowing two-way communication with the outside community.
- B. A foster parent shall safeguard all hazardous chemicals, cleaning materials, toxic substances, and hazardous materials, objects, and equipment.
- C. A foster parent shall safeguard medical equipment and lock medications, except that the foster parent shall safeguard those medications that must be immediately and readily available for a family member or foster child.
- D. When a foster home has a private source of water, the foster parent shall have evidence that a state or local health authority has approved the water as potable water.
- E. The foster parent shall maintain the warm water in the foster home at a temperature that does not exceed 120° F.
- F. A foster parent shall store firearms and ammunition in locked storage which is inaccessible to children.
  - 1. A firearm shall be trigger-locked or fully inoperable while in storage.
  - 2. Ammunition shall be stored in a location separate from firearms.
- G. A foster parent shall not maintain any animal that poses a danger to a foster child.
- H. A foster parent shall provide evidence that dogs belonging to the foster family or routinely present on the foster home premises, have current vaccinations against rabies.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5840. Exterior Environment; Play Area; Play Equipment**

- A. The foster parent shall keep the outside play areas clean and safe. The play area shall be fenced if there are conditions which may pose a danger to a child playing outside. The age and developmental abilities of the child are considerations for determining risk to the child.
- B. The foster parent shall provide a variety of safe play equipment, toys, and supplies for each child. The age and developmental abilities of the child and standards in the community are considerations for determining the variety of play equipment, toys, and supplies required.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5841. Swimming Pools and Pool Safety**

- A. A foster home's swimming pool shall meet the requirements of this Section and the "swimming pool/spa" and "swimming pool guidelines" Section in the Sanitation Inspection Guidelines published by the Department of Health Services (DHS) (January 1996), and not including any later amendments or editions, which are incorporated by reference. Copies of these sections from the guidelines are available for inspection at the Secretary of State's Office, Public Services Department, 1700 West Washington, Phoenix, Arizona 85007, and for inspection and copying at the Department of Economic Security, Author-



ity Library, 1789 West Washington, Phoenix, Arizona 85007, and the DHS, Office of Child Care Licensure, 1647 East Morten, Suite 230, Phoenix, Arizona 85020.

- B. If the foster parent cares for a foster child who is age 5 or under, the swimming pool shall be fenced so that the pool is separated from the house, or, otherwise made physically inaccessible to a foster child.
- C. A foster parent shall supervise a child who is in the swimming pool or surrounding area, in accordance with the child's age, capabilities, and developmental level.
- D. A foster parent shall have at least one person currently certified in cardiopulmonary resuscitation (CPR) present in the foster home's swimming pool area when a foster child age 13 and under is swimming in the foster home swimming pool.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5842. Bedrooms; Bedding; Sleeping Arrangements

A foster parent shall provide safe sleeping arrangements which accommodate the privacy needs of a foster child, as prescribed in this Section.

- 1. The foster family and a foster child shall sleep in bedrooms. An unfinished attic, a basement area, or a space normally and primarily used for passageways and purposes other than sleeping are not bedrooms.
- 2. A bedroom in the foster home shall have a finished ceiling, floor-to-ceiling permanently affixed walls, a door, finished flooring, light, ventilation, and a usable exit to the outdoors.
- 3. A foster parent shall provide each foster child with a bed.
  - a. The bed shall be appropriate to a child's age and needs.
  - b. For the purpose of this Section, "bed" does not include a cot, couch, convertible couch, portable bed, sleeping bag or mat, except as approved by the Licensing Authority.
  - c. No foster child shall sleep in a bunk bed of more than two tiers.
  - d. A foster child under age 8 shall not sleep in the top bunk of a two tier bunk bed.
- 4. A foster parent shall provide the following for each foster child:
  - a. A sanitary mattress;
  - b. A clean pillow;
  - c. Clean bed linens;
  - d. Blankets or covers, as appropriate to the weather;
  - e. A waterproof protective mattress cover, as needed; and
  - f. Furniture or shelving near the bed to store clothing and personal belongings.
- 5. A foster parent shall not allow a foster child to share a bedroom with an adult except as specified in this subsection.
  - a. A foster child under age 3 may share a bedroom with the foster parent.
  - b. A foster child who is age 3 or older may share a bedroom with the foster parent when:
    - i. The sleeping arrangement and the reason for it are described in a foster child's case plan; or
    - ii. The foster child temporarily requires the foster parent's attention during sleeping hours.
  - c. A foster child who has regularly shared a bedroom with another child in the foster home who has turned 18 may continue to share the bedroom with the child who has turned 18 unless the placing agency deter-

mines that the arrangement is contrary to the best interests of the foster child.

- 6. A foster parent shall not allow a foster child who is age 6 or over to share a bedroom with a child of the opposite gender.
- 7. Notwithstanding any other provision of this Section, a foster child who is a minor parent may share a room with her own child.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5843. Bathrooms

- A. A foster home shall have at least one toilet, one wash basin, and one bathtub or shower.
- B. A foster parent shall:
  - 1. Maintain the foster home's toilets, washbasins, bathtubs, and showers in good working order; and
  - 2. Have slip resistant flooring for bathtubs and showers.
- C. A foster home bathroom shall have interior plumbing with both warm and cold water.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5844. Kitchen

- A. A foster home shall have a kitchen that is equipped for safe and sanitary preparation, serving, and storage of food.
- B. The kitchen shall have interior plumbing with both warm and cold water.
- C. The kitchen shall have an operable refrigerator, stove, and oven.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5845. Fire Safety and Prevention

- A. The foster parent shall install and maintain at least 1, single-station smoke detector approved by a nationally recognized testing laboratory in the following areas of the foster home:
  - 1. On each floor in a multi-story dwelling;
  - 2. In each separate sleeping area.
- B. A foster parent shall install and maintain at least one ABC-type fire extinguisher on each floor of the foster home; except if the foster home is a manufactured home, the foster parent shall have at least two fire extinguishers placed at opposite ends of the home.
- C. A foster parent shall not use portable space heaters during sleeping hours.
- D. A foster home shall not rely on portable space heaters as the sole source of heat.

#### Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

#### R6-5-5846. Emergencies, Exits, and Evacuation

- A. A foster parent shall have a plan for emergency evacuation of the foster home.
- B. All household members and persons who care for a foster child in the foster home shall be knowledgeable about the emergency and evacuation plans and procedures.
- C. Within 48 hours after a foster child is placed in a foster home, a foster parent shall give the foster child a developmentally appropriate explanation of the emergency and evacuation plan, and ensure that the foster child can follow the plan in the event of a fire or emergency.
- D. A foster home shall have the following exits:
  - 1. On each floor used by a foster child, two exits which are remote from one another;

2. On each floor, at least one exit with a direct, unobstructed and safe means of travel to the outdoors, and a safe method to reach street or ground level;
3. A window serving as a second exit only if:
  - a. It is accessible to children and care-givers;
  - b. It can be readily opened; and
  - c. It is of a size and design to permit a child or care-giver to pass through it; and
4. On windows with security bars or devices, an emergency release mechanism maintained in good repair.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5847. Special Provisions for a Receiving Foster Home**

A foster parent who operates a receiving foster home shall comply with all foster home requirements, in addition to the following:

1. A receiving foster parent shall be prepared to accept a foster child, according to the capacity and terms of the foster home license, 24 hours per day, seven days per week, unless the foster parent has made other arrangements with the placing and licensing agency.
2. A receiving foster parent may simultaneously provide receiving care, family foster care, and respite care so long as the total number of children in the foster home at any one time does not exceed the ratios prescribed in R6-5-5826 and the terms of the foster home license.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5848. Special Provisions for a Respite Foster Home**

**A.** A foster parent who operates a respite foster home shall comply with all foster home requirements, except as provided in this Section.

1. A respite foster parent may simultaneously provide respite care, family foster care, and receiving care so long as the total number of children in the foster home at any one time does not exceed the ratios prescribed in R6-5-5826 and the terms of the foster home license.
2. A respite foster parent may use sleeper sofas, rollaway beds, couches, cots, and sleeping bags or mats as acceptable sleeping accommodations for a child receiving respite care, provided the respite care does not exceed six consecutive days.

**B.** A respite foster parent shall request and receive information and instruction from the regular foster home licensee on at least the following:

1. Information and instruction about the specific personal care of a child in respite care;
2. Information and instruction about the provision of medications required by a child in respite care;
3. Behavior management policies and practices and specific instructions for a child in respite care; and
4. Emergency contacts and telephone numbers for a child in respite care.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5849. Special Provisions for an In-home Respite Foster Parent**

**A.** A person applying for licensure solely as an in-home respite foster parent shall comply with all foster home requirements except as otherwise provided in this Section.

**B.** An in-home respite foster parent applicant shall comply with R6-5-5802 and R6-5-5823 except the applicant is not required to provide the following:

1. Immunization records for each child in the applicant's household as required by R6-5-5802(B)(6) and R6-5-5823(5);
2. Documentation of sufficient income as required by R6-5-5823(2);
3. A statement explaining the child care arrangements the applicant would make for a foster child, or the applicant's own children, during the applicant's working hours as required by R6-5-5802(B)(10);
4. A statement explaining how activities related to a business activity will not interfere with the care of a foster child as required by R6-5-5802(B)(11);
5. A description of the applicant's home and neighborhood as required by R6-5-5802(B)(16);
6. A statement authorizing the licensing agency or the Licensing Authority to arrange for DHS to conduct a health and safety inspection of the applicant's home as required by R6-5-5802(B)(23)(c).
7. Household members are not required to submit to fingerprinting or a criminal history check as required by R6-5-5802(C) and R6-5-5823(3).

**C.** The following rules do not apply to a person seeking licensure solely as an in-home respite foster parent:

1. R6-5-5827. Placement Agreements;
2. R6-5-5828. Participation in Case Planning, unless requested to do so;
3. R6-5-5830. Medical and Dental Care;
4. R6-5-5834. Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events, subsections (B)(3) and (4), unless the change or event directly affects the licensee's ability to provide respite care and comply with these rules;
5. R6-5-5835. Notification of Events or Changes Involving the Foster Family or the Foster Home, subsection (A), unless the change or event directly affects the licensee's ability to provide respite care and comply with these rules, and subsection (B), except a fire or emergency requiring evacuation of the foster home;
6. R6-5-5836. Maintenance of a Foster Child's Records, except to document any behavioral incidents, medical care, provision of medication, and any other event or service required by the case plan or which may be requested by the regular foster parent while the in-home respite foster parent has responsibility for the foster child in care;
7. R6-5-5838. Foster Home: General Requirements;
8. R6-5-5839. Foster Home: General Safety Measures;
9. R6-5-5840. Exterior Environment; Play Area; Play Equipment
10. R6-5-5841. Swimming Pools, subsections (A) and (B);
11. R6-5-5842. Bedrooms; Bedding; Sleeping Arrangements;
12. R6-5-5843. Bathrooms;
13. R6-5-5844. Kitchen;
14. R6-5-5845. Fire Safety and Prevention, subsections (A) and (B); and
15. R6-5-5846. Emergencies, Exits, and Evacuation, subsections (A), (C), and (D).

**D.** An in-home respite foster parent shall request and receive information and instruction from the regular foster home licensee on at least the following:

1. The behavior management policies and practices of the home as required by R5-5-5833 and specific instructions which apply to a child in respite care;
2. Household policies and practices for emergency situations;

3. Routine household management practices which will provide for continuity in operation of the foster home for the comfort and support of a foster child in care.
- E. An in-home foster parent shall not permit any unlicensed person to accompany or assist the in-home foster parent while providing respite care.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**R6-5-5850. Special Provisions for a Professional Foster Home**

- A. A professional foster home shall comply with all foster home requirements except as otherwise provided in this Section.
- B. A professional foster parent applicant shall provide to the licensing agency or the Licensing Authority documentation or demonstration of:
  1. Verified, successful foster parenting experience; or
  2. Verified experience working with or the ability to care for special care children.
- C. A professional foster parent shall complete the following training:
  1. At least 12 clock hours of pre-service training and six clock hours of ongoing training in addition to the requirements of R6-5-5825(A) and (B);
  2. Training in cardiopulmonary resuscitation (CPR) and first aid; and
  3. Pre-service training related to the type of care and services required by a child to be placed into the professional foster parent's care, which may include the following:
    - a. Training in de-escalation;
    - b. Training in physical restraint practices, as needed; and
    - c. Training in medical and health care issues, procedures, and techniques including:
      - i. The purpose, use, and administration of medications;
      - ii. Medication interactions; and
      - iii. Potential medication reactions.
- D. Notwithstanding any other provisions of this Article, a professional foster home is subject to the licensing limitations in this subsection.
  1. A professional foster home shall have no more than two special care foster children.
  2. The licensing agency may recommend an exception to allow the professional foster parent to care for up to five special care foster children when the foster parent has demonstrated the ability to provide care for more than two special care children.
  3. In deciding whether to recommend increased capacity as allowed by subsection (D)(2), the licensing agency shall assess:
    - a. The professional foster parent's motivation for fostering more than two special care children;
    - b. Any CPS reports involving the professional foster parent; and
    - c. Whether the professional foster parent has demonstrated:
      - i. Verified, successful professional foster parenting experience with two special care children;
      - ii. A minimum of one year of verified, successful work experience with special care children; or
      - iii. Verified specialized skills and training in the care of special care children.
  4. The Licensing Authority shall evaluate the recommendation and determine whether to approve the exception.

- E. Except when temporarily replaced by an approved alternative care provider, a professional foster parent shall serve as the foster child's primary caregiver and be available to provide direct physical and specialized professional services as required in the foster child's case plan.
- F. A professional foster parent shall use best efforts to participate as a member of the service team as prescribed in R6-5-5828(B), through at least one of the following methods:
  1. Personal attendance at team meetings,
  2. Telephonic conference calls,
  3. Provision of a written report on a foster child's progress and problems including any recommendations for service.
- G. A professional foster parent shall maintain at least a weekly record of a special care child's progress and problems, unless more frequent documentation is required, in addition to maintaining the records required by R6-5-5836.
- H. Within the license renewal application, a professional foster parent shall include evidence of current CPR and first aid certification.

**Historical Note**

Adopted effective January 10, 1997 (Supp. 97-1).

**ARTICLE 59. GROUP FOSTER HOME LICENSING STANDARDS****R6-5-5901. Expired****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5902. Expired****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5903. Definitions**

- A. "Authorized representative." A designated employee of the Department or of the contract provided.
- B. "Child." Any person under 18 years of age.
- C. "Department." The Arizona State Department of Economic Security.
- D. "Foster care." A social service which, for a planned period, provides substitute care for a child when its own family cannot care for it for a temporary or extended period of time. Foster care may be in a private family home, a group home or an institution.
- E. "Foster care." A child placed in a foster home or a child welfare agency. (A.R.S. § 8-501(3)).
- F. "Foster child." "A home maintained by an individual or individuals having the care and control of minor children other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals." (A.R.S. § 8-501(4))
- G. "Group foster home." A licensed regular or special foster home suitable for placement of more than five minor children but not more than ten minor children." (A.R.S. § 8-501(5))
  1. "Group family home." A licensed regular group foster home for six to ten minor children whose needs are not adequately met in their own family homes and who cannot tolerate close, intimate parent-child relationships.
  2. "Group community home." A licensed special group foster home for six to ten minor children who require special care, including adjudicated delinquents, and those with physical, mental or emotional handicap problems. Care-

takers of these homes are skilled in caring for such problems.

3. "Group receiving home." A licensed group foster home appropriate for the immediate placement of children when taken into custody or pending medical examination and court disposition, suitable for placement of more than five minor children but not more than ten minor children.
- H. "License." Includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law.
- I. "Licensed medical practitioner." "Any physician or surgeon licensed under the laws of this state to practice medicine pursuant to Title 32, Chapters 13 and 17." (A.R.S. § 36-501(4))
- J. "Licensing." Includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
- K. "Parent or parents." "The natural or adoptive parent or parents of the child." (A.R.S. § 8-501(6))

#### Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

#### R6-5-5904. Responsibilities of the Department

- A. The Department shall establish rules, regulations and standards for:
  1. Recruiting, licensing, re-licensing, classification and supervision of group foster homes.
  2. Uniform amounts of payment for all group foster homes according to type of license.
  3. Form and content of investigations, reports and studies concerning licensing.
  4. Denying, revoking or suspending foster home licenses.
- B. The Department shall provide training, consultation and technical assistance to group foster parents.
- C. The Department shall investigate and take action to prevent continued operation of group foster homes being conducted or maintained without a license.
- D. The Department will ensure that standards represent current child welfare practices which are considered necessary to promote a safe environment for children, and which will contribute toward the normal growth and development of foster children, and which will encourage the development of meaningful relationships with peers, adults and the community.
- E. The Department shall not be obligated to make referrals or payments to a licensed group foster home.

#### Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

#### R6-5-5905. Expired

#### Historical Note

Adopted effective January 18, 1977 (Supp. 77-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

#### R6-5-5906. Licensing Requirements

- A. Consultation. Individuals, associations, institutions or corporations considering the establishment of a group foster home shall consult the Social Services Bureau of the Department about such plans before a specific program is developed, before action is taken to establish such a home, and before an application is filed.
- B. Application. Individuals, associations, institutions or corporations, whether operating for profit or without profit, which desire to conduct or manage a group foster home shall make written application to the department on the prescribed forms.
- C. Fingerprints

1. Foster parents and members of the household, 18 years of age or older, must be fingerprinted and the fingerprints submitted to the Department for a criminal records check.
2. Where group foster care is provided by a firm, corporation, association or organization, all members of the staff having contact with the foster children must be fingerprinted and the fingerprints submitted to the Department for a criminal records check.
3. A license for a group foster home will not be issued, or will be revoked, if any member of the household, 18 years of age or older, or any staff member, has ever been convicted of a sex offense, or involved in child abuse, child neglect, trafficking in narcotics, a criminal offense pattern, or contributing to the delinquency of a minor.
- D. Demonstration of health
  1. The potential foster care applicant, or any staff member, prior to licensing shall furnish the Department, on the prescribed form, with a physical examination report.
  2. Physical examinations must demonstrate that the person has good health and is free from any communicable disease.
  3. A licensed medical practitioner must certify on the form prescribed by the Department that the health of the foster parents is adequate to undertake the tasks expected.
  4. The foster parents, or group foster home Director, shall notify the Department when an individual residing or working in the group foster home contracts a disease or illness which may present a threat to the health of the foster child.
  5. Prior to licensing, children of the foster care applicant shall have current immunizations as prescribed by the Arizona Department of Health Services.
- E. References
  1. Applicants for the original license only shall provide the Department with at least three references as to their character and their ability to provide foster care.
  2. The references may not be relatives of any degree of blood or marriage.
- F. Home study
  1. A study will be made by an authorized representative of the Department to evaluate the potential and actual ability of the foster parents in this specific building and neighborhood to give care and protection to children placed in the home according to the standards prescribed in this Article.
  2. To obtain this information, the authorized representative must make at least one home visit to inspect the house and yard and evaluate the neighborhood, interview all persons living in the home including children old enough to interview, and observe relationships.
  3. In addition, the authorized representative shall interview the foster parents, the group home Director and staff to obtain information regarding the services to be provided.
  4. The Department may request staff of other governmental agencies to make inspections or investigations to determine if the applicant meets standards of the Department. These will include, but not be limited to, inspections for fire, safety, and health.
- G. Agreements
  1. Prior to being licensed, group foster parents or the group foster home Director must sign the Foster Home Agreement form as prescribed by the Department.
  2. Subsequent to being licensed, if the group foster home is going to be used by the Department, there must be a Contract Provider Agreement signed.

**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).

**R6-5-5907. Denial, Suspension, or Revocation of a License**

A. The Department shall deny, suspend, or revoke any license when:

1. The foster home is not in compliance with the licensing standards of the Department, Arizona state or federal statutes, city or county ordinances or codes;
2. The physical or emotional needs of foster children are not met;
3. Needed medical care is not arranged, or when a foster child's medical or psychiatric plan of treatment is not followed; or
4. There is misrepresentation or the violation of public confidence.

B. When the applicant for the licensing or re-licensing of a foster home does not meet, or is in violation of, Department standards, the applicant shall be notified by certified mail, return receipt requested, that the application is being denied.

1. The written notice shall state the reason why the application is denied, with references to applicable statutes, regulations and standards.
2. When a license has been denied, suspended or revoked, the Department shall notify the foster parents of the right to a fair hearing.
3. When a hearing is requested, the denial, suspension, or revocation of the license is not final until after the hearing officer issues a decision.
4. The Department shall conduct appeals as prescribed in 6 A.A.C. 5, Article 75.

**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).

Amended effective June 4, 1998 (Supp. 98-2).

**R6-5-5908. Re-licensing Requirements**

A. Every license shall expire one year from the date of issuance and may be renewed annually on application of the group foster home.

1. License renewal is not automatic.
2. License renewal requires:
  - a. A consultation;
  - b. An application;
  - c. Physical examinations;
  - d. A home study;
  - e. The foster home agreement; and
  - f. The contract provider agreement.

B. An application for the renewal of a license for a foster home shall be made in the same manner as the original application. A licensee should reapply when:

1. The present license will expire within 30 to 60 days.
2. The marital status of the licensee has changed;
3. There is a change in the original program and/or purpose of the home.

**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).

**R6-5-5909. Standards for Licensing and Operating Group Foster Homes**

A. Requirements for family group home foster parents

1. Attitude and ability
  - a. Applicants for licensing and licensed group foster parents shall:
    - i. Have previous training or experience with the type of children for which the foster home is certified;

- ii. Be able to identify with the Department's programs and goals, work within its policies and follow the recommendations of the authorized representatives of the Department;

- iii. Participate in training designated by the Department;

- iv. Have a wholesome attitude toward, and understanding of child development, discipline, health, nutrition, sex education, and the various experiences which a child may have and with which a child may need assistance and guidance; and

- v. Be capable of accepting the child's relationship with his/her parents.

b. Children under the age of 18 years, of applicants for licensing and licensed foster parents must demonstrate a willingness to share their parents and home with foster children.

2. Age

a. Foster parent applicants must be over the age of 18 years and under the age of 65 years.

b. Persons over the age of 65 years may be licensed if recommended by an authorized representative of the Department and if a licensed medical practitioner attests that the health of the foster parents is adequate to undertake the tasks expected.

3. Marital status

a. The presence of both a foster father and a foster mother is considered desirable. However, this requirement may be waived at the discretion of the Department.

b. If the foster parents consist of a husband and wife, they shall have been married to each other for at least 12 months prior to the original application for license.

c. Single parents may apply for licensing if they can demonstrate the ability to care for children adequately.

d. A single parent whose marriage has been dissolved by divorce or death, or who has had a legal separation, must wait 12 months before applying for a license to provide foster care. This does not apply to group foster parents who are currently licensed.

4. Employment

a. Foster parents will not be licensed for the care of children under six years of age if both parents work.

b. Working parents who apply for licensing or re-licensing must demonstrate to the authorized representative of the Department the ability to give adequate care and supervision to foster children.

B. Requirements for community group home staff

1. The administrator of a community group home shall have:

a. A bachelor's degree plus two years of verifiable experience in the field of residential child care, education or other allied profession and shall be responsible for the management of the business and program of the community group home; or

b. A high school diploma and shall have had four years of verifiable work experience in the fields indicated above, including administrative responsibility.

2. Each child care staff member shall have prior successful experience in child care or related areas or have an academic background relating to this field.

C. Requirements for the organization of a community group home

1. Every community group foster home, whether it is operated on a profit or a nonprofit basis, shall be incorporated under the laws of the state of Arizona.
  2. There shall be a board of directors composed of members of the community, none of whom are members of the staff of the community group foster home.
  3. The board of directors shall be responsible for appointing an administrator to assume the full responsibility of directing the business and program of the community group foster home.
- D. Financial resources**
1. Family group home. Foster parents shall have sufficient income to meet the needs of the family unit without dependence upon the payments made in behalf of the foster children.
  2. Community group home
    - a. A community group home shall have a sound plan of financing to assure sufficient funds to enable it to carry out the planned program for children.
    - b. The community group home shall operate on a budget which has been approved by its governing board before the beginning of the fiscal year. The current budget of a community group home shall reflect sufficiency of funds to pay the costs associated with the home's functions.
- E. Supervision and care of foster children.** The following requirements apply to both the family group home and the community group home.
1. General guidelines
    - a. The group foster home shall provide care, training, guidance and controls.
    - b. The group foster home shall see that each child attends school as required by law. Each child shall be given the opportunity to complete high school or vocational training in accordance with the youngster's aptitude.
    - c. The group foster home shall at no time leave children overnight unless attended by a responsible adult.
    - d. The group foster home shall never leave unattended children under 12 years of age or an older child who needs special care for physical, mental or emotional reasons.
    - e. The group foster home shall not accept for care a foster child who has any evidence of a communicable disease or accept for care any foster child when there is evidence of communicable disease in the group foster home.
    - f. The group foster home shall not release a foster child to anyone for care other than the agency from whom the child was received or a person specifically designated by the child placing agency.
    - g. The group foster home shall provide training in good health practices, including proper habits in eating, bathing, personal grooming and hygiene suitable to the child's age and needs.
    - h. The group foster home shall plan activities that stimulate and provide for social relationships, creative activities and hobbies.
    - i. The group foster home shall give children opportunities to participate in neighborhood, school and other community groups appropriate to the age and needs of the youngster.
    - j. The group foster home shall give children opportunity to invite friends to the foster home and to visit in the homes of friends.
  2. Maintenance of appropriate family ties
    - a. The group foster home, unless otherwise indicated by the authorized representative of the child placing agency, shall make every reasonable effort to maintain meaningful ties between the child and his/her family. This would include provision for letter writing between parent and child, planning with the placing agent for parental visits to the child, and home visits by the child when appropriate.
    - b. The group foster home shall provide and encourage reasonable opportunities for the child to maintain contact with all family members and with other individuals important to the child's welfare, consistent with case planning.
    - c. The group foster home shall not deny children opportunities to visit with the parent(s) or guardian unless such visits have been restricted by court action or when the representative of the child placing agency has advised that the visit would be detrimental to the welfare of the child.
  3. Religious training. The group foster home shall permit children to attend the church of their choice and have religious training opportunities.
  4. Discipline and controls
    - a. Discipline shall be handled with kindness and understanding.
    - b. Correction must be fair, reasonable and consistent, and must be related to the offense.
    - c. Well-defined rules that set the limits of behavior shall be established.
    - d. When appropriate, children shall participate in establishing the rules.
    - e. No child within the group foster home shall be subjected to cruel, severe, unusual or corporal punishment inflicted in any manner upon the body.
    - f. No youngster shall be subjected to verbal abuse or derogatory remarks about himself/herself or family.
    - g. The child shall not be deprived of visits from significant others in the child's life as a form of punishment when the authorized representative of the child placing agency has identified the visitation as appropriate.
    - h. Punishment connected with functions of living, such as sleeping or eating, shall not be used.
    - i. Discipline should be administered in such a way as to help this child develop self-control, and to assume responsibility for behavior.
    - j. Appropriate remedial action shall be taken when children in care commit delinquent acts.
  5. Exploitation of children
    - a. The group foster home shall assign tasks and work assignments which are appropriate to the age and abilities of the child and which do not interfere with school, health or necessary recreation.
    - b. The group foster home shall not identify children by name or by clear description and must not allow them to be photographed in any publication or other printed or broadcast media. Only the Department may approve exceptions to this rule.
    - c. The group foster home shall not permit children in care to commit illegal acts.
    - d. The group foster home shall not provide or permit the use of alcohol or drugs unless prescribed by a licensed medical practitioner.

- e. The group foster home shall not use children for money making endeavors or for soliciting on behalf of the facility.
  - 6. Clothing and personal items
    - a. Each child shall have his/her own clothing and personal possessions as well as storage space for them.
    - b. Clothing shall be of the proper size, of correct weight for climatic conditions and shall be kept clean and in good repair.
  - 7. Health care of foster children
    - a. The group foster home shall make arrangements for and/or with health care and treatment facilities to minimize and prevent health problems and illness, to give proper attention to those who are ill, and to correct treatable physical and emotional problems.
    - b. The group foster home shall closely observe children for signs of illnesses such as skin rashes, inflamed eyes, running noses, coughs and elevated temperatures, and obtain prompt medical attention.
    - c. The group foster home shall not ignore a child's complaint of pain or illness.
    - d. The group foster home shall obtain the services of specialists to provide care, treatment and consultation when recommended by the licensed medical practitioner used by the group foster home.
    - e. The group foster home shall not place any child in isolation unless recommended by a licensed medical practitioner.
  - 8. Nutrition. Diets shall be well balanced and adequate to meet the nutritional needs of the children. When ordered by a licensed medical practitioner, special diets shall be provided. No dented or bloated canned foods shall be used. There should be a minimum of three meals per day with one being a cooked full-course meal. Only pasteurized milk shall be used. Appropriate snacks will be provided.
- F. Number of children**
- 1. The number of children in a group foster home shall not exceed the number for which it has been licensed by the Department.
  - 2. A sufficient number of staff must be on duty at all times in order to assure proper care for all children. The minimum ration of group foster home child caring staff, not including clerical, housekeeping and maintenance staff, shall be as follows:
    - a. For children from infancy through six years of age, no more than eight children to one staff member on duty at all times.
    - b. For children from 7 to 18 years of age, no more than ten children to one staff member on duty at all times.
    - c. A staff member shall be present in each building where children sleep during sleeping hours, and at least one staff member must be on duty in a family setting if children are present.
    - d. Where there are pre-school, handicapped, bedridden, or other non-ambulatory children present, the ratio shall be no more than five children to one child care staff member for all hours, including sleeping hours.
- G. One category of care**
- 1. The group foster home shall not be used for categories of care other than group foster care for children. For example, no home shall offer, at the same time, full-time care and care for part of the day.
  - 2. The group foster home shall not combine care of adults and children except in the care of an unmarried mother and her child, or in the case of persons under 21 years of age who voluntarily remain in foster care and who are currently enrolled in and regularly attending any high school.
- 3. The group foster home shall not house adult roomers and/or boarders; the only exception would be if the roomer or boarder has been with the family for a long period of time and is considered a member of the family. In this case, all the requirements for the family must also be met by the roomers and/or boarders.
  - 4. Foster children reaching the age of 18 years may remain in the group foster home as roomers or boarders, if this plan is approved by the Department.
- H. Records and reports**
- 1. Children's records. The group foster home shall maintain a confidential record for each child in care. The information in the child's record shall be made available only to staff of the group foster home and to authorized representatives of the Department and/or the child placing agency. The record of each child shall contain basic identification, and historical, educational, social, medical and psychological information, along with service plans and progress reports.
  - 2. Financial records
    - a. The community group home must maintain complete financial records of all receipts, disbursements, assets and liabilities.
    - b. The community group home, as requested by the Department, must provide budgetary information. The facility must provide for an annual audit of all accounts by an auditor who is not an employee of the facility or a member of its Board of Directors. The person or firm preparing the audit must be certified or registered with the Arizona State Board of Accountancy.
    - c. The group foster home shall maintain a written record of expenditures for clothing and personal allowances for each child.
  - 3. Reports
    - a. The group foster home shall report immediately to the child placing agency whenever a child is injured, runs away, or when there is any other significant change in the child's situation.
    - b. The group foster home shall report all new placements and discharges within five working days.
    - c. The group foster home shall report to the Department any planned change of address, change in program, or other change which significantly affects the care provided. The Department shall be notified 30 days prior to any planned changes.
    - d. Family group home foster parents shall report any change of marital status, and any new roomers or boards in the house.
    - e. The community group home shall report to the Department any change in staff within five days of employment or discharge.
- I. Requirements of home and equipment**
- 1. Location. The group foster home must be in a district where schools and medical care are accessible, and where children can associate with other children and participate in community activities. The group foster home shall be on, or accessible to, a road passable 12 months of the year. The foster parent(s) or staff shall be able to provide private transportation or public transportation shall be near and available. The group foster home must comply with local zoning requirements.

2. Financial records
  - a. The group foster home shall comply with any building, health, fire or other codes in effect in the jurisdiction where it is located. Health inspections will be requested and inspections or clearances may be requested from fire, building, and zoning officials when necessary to verify conformity.
  - b. A mobile home may not be licensed as a group home.
  - c. The house shall be in good repair and large enough to prevent crowding.
  - d. Every habitable room shall be heated so that a 70 degree temperature can be maintained when measured at a height of 3 feet from the floor. Every habitable room shall have adequate cooling in those areas of the state with a warm desert climate. House and garden insecticides, medicines, and all corrosive materials shall be kept in locked storage out of the reach of the children. Such storage shall not be in or near kitchen or food storage areas.
3. Windows and doors
  - a. Every sleeping room shall have at least one window and one door. The window must open to the outside. The window in every livable room shall be a minimum of 22 inches in width with 5 square feet in area to provide clear access to the outside without grills or other obstructions, and to provide adequate lighting and ventilation. The sill shall be a maximum of 48 inches from the floor.
  - b. In sleeping rooms where there is no mechanical ventilation which draws a portion of its air from the outside, there must be one window to the outside of at least ten square feet, half of which can be opened.
4. Room dimensions and areas
  - a. Rooms shall have a minimum ceiling height of 7 feet, 6 inches. Hallways, corridors, and bathrooms shall have ceiling height of at least 7 feet to the lowest projection from the ceiling.
  - b. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the room except that no portion of the room where the ceiling height is less than 5 feet will be counted as available space.
  - c. All rooms must contain 70 square feet minimum area except bathrooms and kitchens. No rooms may have any dimension less than 70 feet except kitchens and bathrooms.
5. Sleeping rooms
  - a. General requirements. Each child shall have a bed equipped with springs, a clean, comfortable covered mattress, spread, a suitable pillow with case, two sheets, and suitable blankets for warmth. Sheets and pillow cases shall be cleaned at least weekly. Use of bedrooms should not be restricted to sleeping only.
  - b. Each child shall have a place to store his clothing and personal belongings and have easy access to the possessions. Individual dressers or drawer space and closet space is essential for each child.
6. Space requirements. There shall be 50 square feet of floor space (excluding closet space) per child in sleeping rooms. The capacity of each sleeping room will be determined individually.
7. Sleeping arrangements
  - a. A child shall not sleep in a bed with an adult.
  - b. No child over three years of age shall share a bedroom with an adult.
  - c. Children over five years of age shall not sleep in the same room with children of the opposite sex.
  - d. Every child shall have his own bed.
  - e. Children shall sleep within calling distance of an adult member of the family. No foster child shall sleep in a detached building, unfinished attic, basement, stairway, hall, or room commonly used for other than bedroom purposes. No caretaker's child or other child in the household shall be displaced and made to occupy such sleeping quarters because of a foster child.
  - f. Bunkbeds of more than two tiers shall not be used. Two-tier bunkbeds shall not be used, however, for children under eight. The beds must be constructed so as to offer comfort and safety and provide sufficient head room.
8. Bathing and toilet facilities
  - a. General requirements
    - i. Lavatories, bathrooms, and toilets shall be adjacent and easily accessible to sleeping rooms. Rooms shall be adequately ventilated to the outside air and shall not open directly onto any pantry, kitchen, serving-room, or dining room.
    - ii. Tubs and/or showers shall have safety strips applied, rubber bath-mats, or other provisions made to prevent slipping.
    - iii. Adequate provision shall be made for keeping individual toilet articles.
  - b. Number of facilities. Each group foster home shall have at least two complete bathrooms that are accessible to the children. (A bathroom with only one exit door into the bedroom of the caretaker(s) will not be considered accessible to children.) There shall be at least one bathtub and/or shower, one toilet, and one waste basin for each six to ten children residing in the home.
9. Kitchen. Approval of the Arizona State Department of Health Services is required for all food services and equipment in accordance with the provisions of A.R.S. § 8-504.
10. Dining area
  - a. The dining area shall be furnished with the necessary furniture to accommodate those living in the group foster home.
  - b. Location of the dining area shall be convenient to the kitchen.
11. Living room. There shall be an adequately furnished living room or living area.
12. Medicine cabinets. Medicines shall be stored in a clean, locked cabinet that is designated for this use only. All medications which have been prescribed for past illnesses or for children discharged from the foster home shall be destroyed.
13. Laundry. Adequate provisions shall be made to care for the laundry.
14. Space and water heaters. Space and water heaters must be vented to the outside, adequately grounded, and installed to comply with building, plumbing, electric and fire codes.
15. Water supply. Where a municipal water system does not supply water to the home, the water must be tested once a year by the General Sanitation Section of Arizona State Department of Health Services.
16. Swimming and wading pools
  - a. Swimming pools shall meet the requirements of the Arizona State Department of Health Services.



- b. The pool shall be made inaccessible to children under the age of six; they shall be supervised at all times.
- c. During the swimming season, the swimming pool shall be tested and logged daily for free chlorine and to determine the pH of the water. Water safety courses are required.
- d. Tests shall comply with the requirements of the Arizona State Department of Health Services.
- 17. Play area
  - a. There shall be adequate space for both indoor and outdoor play.
  - b. The premises, inside and out, shall be equipped and maintained in a manner which is not hazardous to children.
- 18. Fire protection
  - a. All group foster homes shall have a written fire evacuation plan posted and should conduct fire drills at least once every two months.
  - b. Portable fire extinguishers of a type approved for the intended use are strongly urged.
- 19. Telephone. There shall be telephone service in the group foster home.
- 20. Vehicle(s). The vehicle(s) for transporting children shall be in a safe operating condition and all drivers shall have a current driver's license.
- 21. Insurance
  - a. The group foster home shall provide for insurance coverage for adequate protection against accidents.
  - b. Insurance coverage must include liability insurance to cover acts of children or staff, and protection against damages to, or loss of, buildings and other valuable properties.
  - c. There shall be liability insurance on all vehicles transporting children.

**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).

Amended effective February 21, 1980 (Supp. 80-1).

**R6-5-5910. Confidentiality**

The rules and regulations of the Department for securing and using confidential information concerning the client will be followed. Refer to Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information."

**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).

**R6-5-5911. Expired****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

**R6-5-5912. Expired****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective October 31, 2001 (Supp. 01-4).

# ARTICLE 60. COMPREHENSIVE MEDICAL/DENTAL PROGRAM FOR FOSTER CHILDREN

**R6-5-6001. Objective**

The goal of the Comprehensive Medical/Dental Program for Foster Children is to provide, in the most cost effective manner, full coverage for those medical and dental services which are necessary to the

achievement and maintenance of an optimal level of physical and mental health for children in foster care.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

**R6-5-6002. Authority**

Article 60 is adopted pursuant to the power vested in the Director of the Department of Economic Security by A.R.S. §§ 8-511(A)(2), (A)(3), (B) and (C) and 8-512.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

**R6-5-6003. Definitions**

- A. "Adjudicated child." A child adjudicated by the court as dependent, neglected or delinquent residing in a licensed foster family home or child welfare agency.
- B. "Ambulatory care institution." A health care institution licensed by the Arizona Department of Health Services with inpatient beds providing limited hospital services on an outpatient basis including an outpatient surgical center and an outpatient treatment center.
- C. "Ancillary services." Special services and items furnished to an institutional recipient, which are separately payable in addition to the daily room and board charge.
- D. "Authorization." An approval given by the designated Departmental representative or representative of the fiscal intermediary to a specific medical/dental provider to render services or items to a specific recipient.
- E. "Claim." The invoice submitted by the medical/dental provider for reimbursement for covered services.
- F. "Comprehensive Medical/Dental Program for Foster Children." The name for the program authorized by legislation and regulated as shown herein by the Department.
- G. "Covered services." As defined in R6-5-6005.
- H. "Dentist." An individual licensed to practice dentistry and/or oral surgery by the appropriate regulatory board of the state of Arizona. The term shall include such individual only when practicing within the scope of the license.
- I. "Department." The Department of Economic Security.
- J. "Director." The Director of the Department of Economic Security.
- K. "Emergency dental services."
  - 1. Those services necessary to control bleeding, relieve pain, eliminate acute infections.
  - 2. Operative procedures which are required to prevent pulpal death and the imminent loss of teeth.
  - 3. Treatment of injuries to the teeth or supporting structures.
  - 4. Palliative therapy for pericoronitis associated with impacted teeth.
  - 5. Reduction of maxillary and mandibular fractures.
- L. "Emergency services." Those services required for alleviation of severe pain or for immediate diagnosis or treatment of an unforeseen medical condition which, if not immediately diagnosed and treated, would lead to rapid deterioration of the health status.
- M. "Eye care services." Diagnostic eye examinations to detect the presence or absence of ocular abnormality or visual disability, treatment related thereto, and the dispensing of eye glasses or other optical devices, when necessary, to improve visual performance.
- N. "Eye glasses." Frames with lenses prescribed by an ophthalmologist, other licensed medical practitioner or optometrist to aid or significantly improve visual performance.
- O. "Foster care provided." A home or child-caring agency licensed by the state as a foster home, group home or child

- welfare agency, which provides care and maintenance for foster children.
- P.** “Foster child.” A child adjudicated by the court as dependent, neglected or delinquent or on whom the parent(s) have signed the necessary paperwork for voluntary foster care and who are residing in a licensed foster home or child welfare agency.
- Q.** “Hearing aid.” Any wearable instrument or device designed for or represented as aiding, improving or compensating for defective human hearing, and any parts, attachments or accessories of such instrument or device, including earmolds.
- R.** “Hearing aid evaluation.” The application and interpretation of a battery of tests by an otolaryngologist, otologist, other licensed medical practitioner or audiologist to determine if amplification may be advantageous to an individual’s hearing and what parameters of amplification are required to obtain a satisfactory result.
- S.** “Identification card.” A plastic card for each foster child issued by the Department to establish the identity of the child eligible for the covered services.
- T.** “Inpatient.” A person who has been admitted to a hospital or skilled nursing facility for bed occupancy for purposes of receiving inpatient services. A person will be considered an inpatient when formally admitted as an inpatient, i.e., when admitted for a period of more than 12 hours or through the census hour.
- U.** “Inpatient hospital services.” Those services and items furnished by the hospital for the care and treatment of inpatients under the direction of a physician or dentist.
- V.** “Inpatient hospital services.” Those services and items furnished by the hospital for the care and treatment of inpatients under the direction of a physician or dentist.
- W.** “Legend drugs.” Those drugs which, under federal or state law or regulations, may be dispensed only by prescription.
- X.** “Medical/dental provider.” Any person, institution or entity which provides covered services to an eligible foster child recipient under the program.
- Y.** “Medical equipment.” Durable items and appliances that can withstand repeated use, are designed primarily to serve a medical purpose and are not generally useful to a person in the absence of a condition, illness or injury.
- Z.** “Nursing services.” Those services that are performed by or under the supervision of a registered nurse at the direction of a licensed practitioner.
- AA.** “Ophthalmologist.” A licensed medical practitioner who specializes in the diagnosis and treatment of the eye and its related structures.
- BB.** “Optometrist.” A person registered with the state medical board to practice optometry.
- CC.** “Orthodontic condition.” A clinically obvious physical abnormality of tooth and/or jaw relationships.
- DD.** “Orthopedic devices.” Supportive or corrective devices used for treatment of a musculoskeletal abnormality or injury.
- EE.** “Otolaryngologist.” A licensed medical practitioner whose practice is limited to the specialty of conditions or disease of the ear, nose and throat and who qualifies as a specialist in those areas.
- FF.** “Otologist.” A physician who limits his practice to the specialty of conditions and diseases of the ear and who qualifies as a specialist in this area.
- GG.** “Outpatient.” Not an inpatient.
- HH.** “Palliative services.” Those services required to reduce the severity or relieve the symptoms of a condition, illness or injury.
- II.** “Physical therapist.” A person registered to practice physical therapy.
- JJ.** “Physical therapy services.” Those services provided by or under the supervision of a physical therapist.
- KK.** “Physician.” An individual licensed to practice medicine or medicine and surgery (including an osteopathic practitioner), a podiatrist or an optometrist. The term shall include such individuals who have been granted a license to practice by the appropriate regulatory board of the state of Arizona and shall include them only when they are practicing within the scope of such license. The term shall also include a Christian Science practitioner recognized by the Mother Church and listed as such in the “Christian Science Journal.”
- LL.** “Prescription.” An order to a provider for covered services issued, signed and transmitted by an individual authorized to prescribe such services.
- MM.** “Preventive services.” Those health services designed to forestall a condition, illness or injury.
- NN.** “Prior authorization.” This term shall have the definition given it by the terms and procedures of R6-5-6007.
- OO.** “Prosthesis.” An artificial substitute for a missing body part including but not limited to an arm, leg, eye, tooth, etc.
- PP.** “Psychologist.” An individual certified by the State Board of Psychologist Examiners.
- QQ.** “Radiological services.” Professional and technical X-ray and radioisotope services ordered by a licensed medical practitioner or dentist for diagnosis, prevention, treatment or assessment of a medical condition. Radiological services includes portable X-ray, radioisotope, medical imaging and radiation oncology.
- RR.** “Rehabilitation services.” Physical, occupational, speech and respiratory therapy, audiology services and other restorative services and items ordered by a physician to attain maximum reduction of physical or mental disability and restoration of the individual to an optimum functional level.
- SS.** “Routine physical examinations.” Medical examinations performed without relationship to treatment or diagnosis of a specific condition, illness or injury. This includes physical examinations for employment.
- TT.** “Skilled nursing facility.” A health care institution which is licensed by the Department of Health Services as a skilled nursing facility.
- UU.** “Speech therapist.” A person who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association or who has completed the equivalent educational requirements and work experience required for such a certificate.
- VV.** “Therapeutic services.” Those curative services required for treatment of a condition, illness or injury and includes acute, chronic and emergency care.
- WW.** “Treatment plan.” That portion of the authorization process which requires that the attending physician and other professional allied health personnel involved in the care of a recipient establish and review periodically a plan of treatment and care for each recipient.
- XX.** “Fee schedule.” Allowable amounts established by the Department for medical, dental, and psychological care for foster children.

#### Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

#### R6-5-6004. Eligibility

- A.** The Department shall pay or cause to be paid the cost of necessary covered services, up to the maximum allowed by the fee schedule, rendered to children who are:
1. Placed in a licensed foster home or licensed child welfare agency by:

- a. The Department of Economic Security; or
- b. The Department of Corrections; or
- c. The Juvenile Probation Office.
- 2. Placed in a licensed receiving foster care facility (shelter care).
- 3. Or for whom temporary custody has been awarded to the Department, and who are placed in a hospital for care and treatment.
- B.** Children born to an eligible foster child (as defined in subsection (A) of this Section) shall be eligible for payment of routine newborn care and treatment up to and including the third day of life. This period may be extended where the need is established by such persons as the Director shall designate.
- C.** Persons under the age of 21 who were placed in a foster family home or institution prior to the age of 18, and who voluntarily remain in such care and who are currently enrolled in and regularly attending any high school.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

Amended effective May 25, 1979 (Supp. 79-3).

**R6-5-6005. Definition of Covered Services**

Comprehensive medical/dental services shall include but not be limited to the following covered services:

- 1. A complete preplacement medical examination prior to the initial foster placement in a regular or special foster home. Such examination shall include as a minimum:
  - a. Vaccinations to prevent mumps, rubella, smallpox and polio if not previously provided to the foster child.
  - b. Tests for anemia, coccidioidomycosis and tuberculosis.
  - c. Urinalysis, blood count and hemoglobin tests.
  - d. Standard medical procedures used for determining the recipient's general health, hearing and vision, including prescribing corrective devices when needed.
  - e. Further evaluation and diagnosis as is medically necessary.
- 2. Periodic medical examinations, not less than once each year, subsequent to initial placement for a child placed in a setting other than his parents' home.
- 3. Inpatient care. Benefits shall be paid for necessary inpatient hospital or skilled nursing facility care, including diagnosis and treatment, for physical or mental illness, for injury or for pregnancy, and shall include items and services which are ordered pursuant thereto by a physician, dentist or psychologist and which are ordinarily furnished by the hospital or skilled nursing facility for care and treatment of inpatients. Included shall be:
  - a. Bed and board, including dietary services and general nursing care, in a semi-private room (i.e., room with two or more beds) or a private room if medically necessary.
  - b. Professional services furnished through or by the hospital, including the services of a physician, dentist or psychologist; physical therapy; rehabilitation services; and medical social services.
  - c. Ancillary services as follows:
    - i. Laboratory, therapeutic and diagnostic services including radiological services.
    - ii. Use of operating room, recovery room emergency room and intensive care.

- iii. Drugs, blood, oxygen, medical supplies, equipment and appliances related to care and treatment in the hospital.
- iv. Prosthetic and orthopedic devices.

- 4. Inpatient professional care. To include surgery, assistance at surgery, administration of anesthesia, hospital visits and consultations, professional administration and interpretation of laboratory and radiological procedures and test results, and other necessary care and procedures and rendered by a physician, dentist or psychologist in accordance with all rules and regulations of the hospital.
- 5. Outpatient professional evaluation, care and treatment. To include preventive, palliative, diagnostic, therapeutic, rehabilitative, surgical, or other such items and services which are administered or provided on an outpatient basis for the necessary diagnosis or treatment of injury, pregnancy, physical or mental illness.
- 6. Laboratory and x-ray services ordered by a physician, dentist or psychologist for diagnosis and treatment.
- 7. Dental care provided by or under the direct supervision of a dentist. To include oral examinations, diagnostic radiography, oral prophylaxis, topical fluoride applications, restoration of permanent and primary teeth, pulp therapy, extraction when necessary, fixed space maintainers where needed, oral hygiene instruction, orthodontia and other service procedures necessary for relief of pain and infection.
- 8. Prescription and non-legend drugs prescribed by a physician or dentist.
- 9. Ambulance services.
- 10. Private duty nursing.
- 11. Injections, immunizations, allergy testing and treatment.
- 12. Physical therapy, speech therapy, respiratory therapy, radiation therapy, etc.
- 13. Electrocardiograms, electroencephalograms and other similar diagnostic procedures.
- 14. Medical equipment, corrective medical appliances and orthopedic devices or prostheses.
- 15. Services of an ambulatory care institution.
- 16. Eye care services and eyeglasses.
- 17. Hearing evaluations, hearing aid evaluations and hearing aids.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

**R6-5-6006. Exceptions, Limitations and Exclusions**

The Department shall not pay for:

- 1. The cost of any covered service which is not medically necessary for prevention, diagnosis or treatment of a condition, illness or injury.
- 2. That portion of the cost of any covered service which exceeds the charges set by the fee schedule. The medical/dental provided is hereby prohibited from rendering a bill for additional amounts to the Department, its representatives, any fiscal intermediary the Department may contract with to administer this program, the foster child, his guardian, his estate, the foster child's foster parents, his natural parents or any other party.
- 3. The cost of care and services payable through any federal, state, county or municipal program to which an eligible foster child may be entitled except for the cost of care and services in excess of any such program.
- 4. The cost of care and services payable through an insurance carrier which provides coverage for the eligible foster child except for the cost of care and services in excess of any such insurance benefits.

5. Psychiatric or psychological evaluations and treatment unless performed or ordered by a licensed medical practitioner or psychologist certified by the State Board of Psychologist Examiners.
  6. Any expenses submitted for reimbursement after 180 days following provision or delivery or otherwise covered services.
  7. Any service or item furnished primarily for cosmetic purposes rather than for the correction of defects resulting from a condition, illness or injury. In determining whether a service is furnished primarily for cosmetic purposes, consideration will be given to the eligible foster child's psychological welfare and future occupational opportunities. Orthodontic services are included in this category.
  8. Non-legend drugs which are not prescribed by a physician or dentist.
  9. Care and services rendered to an individual who is not an eligible foster child.
  10. Any covered service for which no charge would have been rendered in the absence of this program.
  11. Any admission, service, item, or otherwise covered service requiring prior authorization where such authorization has not been obtained or has been denied.
  12. Services of naturopaths and chiropractors.
  13. Psychological services or other diagnostic or treatment services for a foster child in a child welfare agency which provides such care as part of its contractual services which are already paid for by the Department, including services provided by the agency's staff.
  14. Care and services rendered to a foster child under the Bureau of Indian Affairs foster care program.
  15. Care and services rendered a foster child placed in Arizona by another state whether voluntarily or under jurisdiction of the court of another state.
  16. Non-medical items such as, but not limited to, slippers, hair cuts, snack bar merchandise, shampoos and writing paper.
  17. The following dental care services:
    - a. Any care which requires prior authorization and for which prior authorization was not sought or was sought but was not granted, unless ordered by the Court.
    - b. Oral hygiene instruction which exceeds \$6.00 per fiscal year.
    - c. Porcelain-fused-to-metal crowns.
    - d. Acrylic veneered gold crowns whose position in the mouth is posterior to the second bicuspid.
    - e. Full crowns except when teeth cannot be restored by a pin-reinforced restoration.
    - f. Gold inlays.
    - g. Temporary restorations, except to the extent they are considered part of and paid for as a part of the finished restoration.
    - h. Building up any tooth, except to the extent it is considered part of and paid for as a part of the finished restoration.
    - i. Building up a tooth beneath a crown.
- Historical Note**  
 Adopted effective March 11, 1977 (Supp. 77-2).  
 Amended effective March 28, 1978 (Supp. 78-2).
- R6-5-6007. Prior Authorization**
- A. As hereafter more fully described, authorization is required before certain covered services are rendered in order for those services to be paid for under this Article and A.R.S. §§ 8-511 and 8-512.
  - B. Payment will not be made for any covered service which requires prior authorization and either
    1. Was not submitted for such prior authorization or
    2. Was submitted but such prior authorization was not granted.
  - C. Any medical/dental provider is hereby prohibited from rendering a bill for charges subject to prior authorization which are not granted prior authorization, such prohibition extending to charges rendered to the Department, its representatives, any fiscal intermediaries the Department may contract with to administer this program, the foster child, his guardian, his estate, the foster child's foster parents, his natural parents or any other party.
  - D. Prior authorization shall not be required for the following covered services as actually provided or proposed to be provided:
    1. Services necessary to care for acute physical illness, chronic physical illness, acute injury or pregnancy insofar as treatment is consistent with the diagnosis.
    2. Emergency services in all instances, including emergency dental services.
    3. Complete preplacement examination as required by A.R.S. § 8-511(A)(2).
    4. First- and second-year well-baby care not to exceed a total of \$200 for both years.
    5. Initial dental examination and treatment indicated thereby but not to exceed \$50 per fiscal year.
    6. Emergency inpatient psychiatric care not to exceed ten inpatient days.
    7. Rental or purchase of medical equipment when accompanied by physician prescription where cost does not exceed or could reasonably be expected not to exceed \$25 per fiscal year in the aggregate for all such costs in one fiscal year.
    8. Prescription and non-legend drugs which are necessary to the foster child's medical care and appropriate to his treatment regimen.
    9. Eyeglasses for which the cost does not exceed \$60 per pair, including lenses and frames, or which are replacement lenses and/or frames obtained more than 12 months following the preceding pair.
    10. Psychiatric or psychological diagnostic evaluation not to exceed \$200.
    11. Initial psychiatric or psychological interview not to exceed \$50.
  - E. Prior authorization shall be required for the following covered services:
    1. Psychiatric or psychological therapy, whether proposed on an individual or group.
    2. Continuation of therapy shown in (1) above past ten outpatient sessions, and thereafter in accordance with appropriate judgment as to what constitutes necessary care as determined from the treatment plan and/or medical record.
    3. Inpatient psychiatric care beyond ten consecutive inpatient days, and thereafter in accordance with appropriate judgment as to what constitutes necessary care as determined from the treatment plan and/or hospital record.
    4. Elective (non-emergency) surgery and expenses associated with such surgery.
    5. First- and second-year well-baby care which exceeds or is expected to exceed a total of \$00 for both years.
    6. Eyeglasses costing more than \$60, including lenses and frames, or which are replacement lenses and/or frames

- obtained less than 12 months following the preceding pair.
7. The following specific types of dental care:
    - a. Any service or combination of services which exceeds \$50 in any fiscal year.
    - b. Any treatment plan which proposes a full crown or crowns.
    - c. Any treatment plan which involves replacement of any tooth or teeth, by either removable or fixed appliances.
    - d. Any treatment plan which proposes a fixed bridge.
    - e. Any treatment plan which proposes a partial denture.
    - f. Any treatment plan which proposes treatment of a dentofacial abnormality (orthodontic services).
  8. Rental or purchase of medical equipment (unless necessary due to a medical emergency) when accompanied by physician prescription.
  9. Outpatient therapy services and treatment modalities such as, but not limited to, speech therapy, physical therapy, respiratory therapy, and radiation therapy.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

**R6-5-6008. Coordination of Benefits**

- A. The Department shall determine the possible existence of any primary insurance coverage for all eligible foster children at the time the need for foster care is established. The possible existence of such coverage shall be redetermined at least every six months.
- B. The Department shall request the court to include a statement in its court order requiring parent(s) or guardian of adjudicated children to cooperate with Department of Economic Security in coordinating benefits with any existing health insurance carrier and to maintain any health insurance coverage presently existing which covers the child(ren).
- C. The Department shall advise the court when parent(s) or guardian of adjudicated children refuse to cooperate with Comprehensive Medical/Dental Program (CMDP) in providing and/or signing appropriate documents required in order to coordinate insurance benefits, or fail to maintain any existing insurance coverage for the child.
- D. In voluntary placements, the parent(s) or guardian must cooperate with Comprehensive Medical/Dental Program (CMDP) in providing and/or signing appropriate documents required to coordinate health insurance benefits.
- E. In the absence of health insurance coverage, the Department shall determine what additional resources are available to cover medical and dental costs.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

**R6-5-6009. Identification Card**

- A. The Department shall issue, or cause to be issued, an identification card for each eligible foster child.
- B. The caseworker shall apply for an identification card for the eligible foster child.
- C. The Department shall immediately upon placement inform the foster care provider in writing that the identification card is not transferable and that the card is to be used only for medical/dental covered services for the foster child whose name appears on the card only so long as said foster child shall remain eligible under this Program.

- D. The foster care provider shall be given oral and written instructions regarding the use of the identification card when procuring medical and dental care for the eligible foster child.
- E. When an eligible foster child is terminated from foster care, the foster care provider shall immediately return the identification card to the Department.
- F. The foster care provider shall return the identification card to the Department seven days from the date an eligible foster child runs away from the foster care provider.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

**R6-5-6010. Payment and Review of Claims**

- A. Claims for payment shall be submitted by medical/dental providers in the manner prescribed by the Department.
- B. Claims for payment for covered expenses shall not be paid if an appointment is not kept and/or if covered services were not rendered or provided.
- C. Claims for payment shall not be accepted or paid prior to the delivery of covered services.
- D. Claims for covered services shall be accepted from medical/dental providers both in and outside the state of Arizona.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

**R6-5-6011. Abuse and Misuse of the Program**

- A. The Department shall establish a procedure to investigate any alleged abuse of the Comprehensive Medical/Dental Program. If abuse is substantiated, administrative or legal action shall be taken.
- B. The Department shall monitor the activity of the Comprehensive Medical/Dental Program to ensure compliance with the program requirements.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

**R6-5-6012. Consent for Treatment**

- A. For an eligible foster child adjudicated by the court, the Department shall secure a court order and, if possible, the consent of the parent or guardian for surgery, general anesthesia, blood transfusion, or pelvic examination of a child.
- B. For a foster child in voluntary placement, consent of the parent or guardian shall be necessary only for medical treatment involving surgery, general anesthesia, blood transfusion, or pelvic examination of a child, except for emergency situations described in subsection (C).
- C. In cases of emergency, in which a foster child is in need of immediate hospitalization, medical attention or surgery, and when the parents cannot readily be located, the foster care provider or caseworker may give consent pursuant to A.R.S. § 44-133 for hospital care, medical attention or surgery.
- D. Persons under the age of 21 who were placed in a foster family home or institution prior to the age of 18, and who voluntarily remain in such care, and who are currently enrolled in and regularly attending any high school may give consent for their own treatment.

**Historical Note**

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective May 25, 1979 (Supp. 79-3).

**R6-5-6013. Administration of the Program**

- A. The Department shall have the ability to contract with any insurer, insurance plan, hospital service plan, or any health service plan authorized to do business in this state, or with any fiscal intermediary or with any combination of such plans or methods. Such contract will be entered into for purposes of

administering this Comprehensive Medical/Dental Program for foster children in a manner consistent with its authorizing legislation and these regulations.

- B. Such contract, if entered into by the Department, shall be specific as to the responsibilities of each party to the contract and shall provide for reasonable payment to the contractor for his administrative services as required by the contract.
- C. The terms of such contract, if entered into by the Department, shall reflect these regulations. If the Department and the contractor, in the future, determine that certain additions, deletions, corrections or alterations in the contract are required so as to cause the administration of the program to be consistent with the authorizing legislation, these regulations and the intents thereof, such additions, deletions, corrections or alterations shall be made in the contract by mutual written consent, signed by authorized representatives of the Department and the contractor, without first having to alter these regulations.

#### Historical Note

Adopted effective March 11, 1977 (Supp. 77-1).

#### R6-5-6014. Case Management

- A. Determining financial need. Financial eligibility for the CMDP is limited to foster children who reside in licensed facilities.
- B. Case management
  - 1. Confidentiality. The rules and regulations of the Department regarding the disclosure and use of confidential information concerning the client, as set forth in A.A.C. Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information" shall apply to all services provided under this Article.
  - 2. Appeals. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 25, "Complaints and Appeals" shall apply to all services provided under this Article.
  - 3. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 26, "Civil Rights" shall apply to all services provided under this Article.
- C. Closing the service. Service shall be closed when the child is no longer in foster care.

#### Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).  
Amended effective March 28, 1978 (Supp. 78-2).

#### R6-5-6015. Fee Schedule

- A. The Comprehensive Medical and Dental Program shall pay providers in accordance with the established fee schedule unless otherwise specified by contract or required by this Article.
- B. A current fee schedule shall be maintained in the central office of the CMDP for reference use during customary business hours. Relevant information or portions of the fee schedule shall be made available to service providers and other interested persons on request.

#### Historical Note

Adopted effective May 15, 1990 (Supp. 90-2).

#### EXHIBIT 1. REPEALED

#### Historical Note

Exhibit as filed is incomplete. Exhibit adopted effective March 28, 1978 (Supp. 78-2). Amended by adding Maximum Allowable Anesthesia Fee Schedule effective April 17, 1980 (Supp. 80-2). Amended Medicine - Psychiatric Services; Radiology - Urinary Tract; Dental - Restorative, Endodontics, and Fixed Prosthodontics effective Septem-

ber 17, 1980; Maximum Allowable Anesthesia Fee Schedule not included (Supp. 80-5). Repealed effective May 15, 1990 (Supp. 90-2).

#### ARTICLE 61. REPEALED

#### R6-5-6101. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6101 repealed, new Section R6-5-6101 adopted effective August 29, 1984 (Supp. 84-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

#### R6-5-6102. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6102 repealed, new Section R6-5-6102 adopted effective August 29, 1984 (Supp. 84-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

#### R6-5-6103. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6103 repealed, new Section R6-5-6103 adopted effective August 29, 1984 (Supp. 84-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

#### R6-5-6104. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6104 repealed, new Section R6-5-6104 adopted effective August 29, 1984 (Supp. 84-4).  
Repealed effective June 5, 1997 (Supp. 97-2).

#### R6-5-6105. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

#### R6-5-6106. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

#### R6-5-6107. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

#### R6-5-6108. Repealed

#### Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

#### ARTICLE 62. REPEALED

Former Article 62 consisting of Sections R6-5-6201 through R6-5-6209 repealed effective August 29, 1984.

#### ARTICLE 63. REPEALED

Former Article 63 consisting of Sections R6-5-6301 through R6-5-6304 repealed effective November 8, 1982.

**ARTICLE 64. REPEALED**

*Former Article 64 consisting of Sections R6-5-6401 through R6-5-6408 repealed effective February 1, 1979.*

**ARTICLE 65. DEPARTMENT ADOPTION FUNCTIONS  
AND PROCEDURES FOR PROVIDING ADOPTION  
SERVICES****R6-5-6501. Definitions**

In addition to the definitions in A.R.S. § 8-101, the following definitions apply in this Article and in Articles 66, 70, and 71, unless the context requires otherwise:

1. “Adoptable child” means a child who is legally available for adoption but who has not been placed for adoption.
2. “Adoptee” means a child who is the subject of a legal petition for adoption.
3. “Adoption agency” has the same meaning ascribed to “agency” in A.R.S. § 8-101(2).
4. “Adoption entity” or “entity” means a person or organization performing a particular adoption service, and includes an adoption agency and the Department but does not include a private attorney who is licensed to practice law in the state of Arizona and who is only assisting in a direct placement adoption to the extent allowed by A.R.S. § 8-130(C).
5. “Adoption placement” or “placement” means the act of placing an adoptable child in the home of an adoptive parent who has filed, or who contemplates filing, a petition to adopt the child.
6. “Adoption services” means activities conducted in furtherance of an adoption and includes the activities listed in R6-5-6504 and R6-5-7002(B).
7. “AHCCCS” means the Arizona Health Care Cost Containment System established pursuant to A.R.S. Title 36, Chapter 29.
8. “AHCCCSA” means the Arizona state government agency which administers the AHCCCS program.
9. “Birth parent” means the biological mother or father of a child.
10. “Central Adoption Registry” or “Registry” means the computerized bank of information described in A.R.S. § 8-105(O).
11. “Certification application” means the form which a prospective adoptive parent submits to an adoption entity or to the court to request a certification investigation.
12. “Certification investigation” means the process referred to in A.R.S. § 8-105(C) by which an adoption entity determines if a prospective adoptive parent is a fit and proper person to adopt.
13. “Certification order” means a judicial determination that a prospective adoptive parent is a fit and proper person to adopt.
14. “Certification report” or “adoptive home study” means the written report described in A.R.S. § 8-105(H) in which an adoption entity summarizes the results of a certification investigation and makes a recommendation for or against certification of a prospective adoptive parent.
15. “Certified adoptive parent” means a person who has been certified as fit and proper to adopt and who is awaiting placement of an adoptable child.
16. “Child with special needs” means a child who has one of the special needs listed in A.R.S. § 8-141(A)(14).
17. “Client” means a person who is receiving adoption services from an adoption entity and includes adoptive children, adoptive families, adoptive parents, and birth parents.
18. “CPS” means Child Protective Services, a Department program responsible for investigating reports of child abuse or neglect.
19. “CPSCR” means the Child Protective Services Central Registry, a computerized data bank of information concerning reports of child abuse or neglect, which CPS maintains pursuant to A.R.S. § 8-546.03.
20. “Department” has the same meaning ascribed to “Division” in A.R.S. § 8-101(7).
21. “Developmentally appropriate” means an action which takes into account:
  - a. A child’s age and family background;
  - b. The predictable changes that occur in a child’s physical, emotional, social, cultural, and cognitive development; and
  - c. The individual child’s pattern and history of growth, personality, and learning style.
22. “Document” means to make and retain, in a record or file, a written summary of a fact, a contact, a communication, an observation, or an event.
23. “Final report to the court” means a written report about an investigation which an adoption entity performs pursuant to A.R.S. § 8-112, in which the entity advises the court of the entity’s assessment and recommendations about finalization of a particular adoption.
24. “Foster parent” has the same meaning prescribed in A.R.S. § 8-501(A)(5).
25. “ICPC” means the Interstate Compact on the Placement of Children described in A.R.S. § 8-548.
26. “ICWA” means the Indian Child Welfare Act described in 25 U.S.C. 1901 et seq.
27. “License” means a document that the Department issues to an agency authorizing the agency to perform adoption services.
28. “License applicant” means a person, group, or business entity which seeks to become licensed or to renew a license as an adoption agency.
29. “Open adoption” means an adoption in which the adoptive parent and the birth parent agree to a full exchange of personally identifying information and to meet each other at the time of adoption, and to have ongoing written or personal contact with each other in the future.
30. “Out-of-state agency” means any person who, or business which, is authorized or licensed by a state other than Arizona, or a foreign country, to perform adoption services.
31. “Placed child” means an adoptable child who has been placed with an adoptive parent and the adoptive parent has not yet filed a petition to adopt the child.
32. “Placement investigation” means the process referred to in A.R.S. § 8-105(F) by which an adoption entity determines if a particular placed child is suitable for adoption by a particular adoptive parent.
33. “Placement report,” “report to the court on placement of a child,” or “RCPC” means the written report described in A.R.S. § 8-105(I) in which an adoption entity summarizes the results of the placement investigation and makes a recommendation as to whether a particular child is suitable for adoption by a particular adoptive parent.
34. “Placement supervision period” or “probationary period” means the time period from the date of adoption placement until the court enters a final order of adoption, during which the petitioner has the rights prescribed in A.R.S. § 8-113(D).
35. “Prospective adoptive parent” means a person who has applied to an adoption entity to become certified to adopt a child.

36. "Reasonable fee" means
- A fee commensurate with:
    - The actual cost of providing a specific service or item to a specific individual, or
    - The average cost of a service or item if the adoption entity routinely uses an averaging method to determine the cost of a particular service or item.
  - A reasonable fee may include reasonable compensation for officers and employees and a reasonable profit margin above actual or averaged costs. As used in this Section, reasonableness is determined as prescribed in R6-5-6503(G).
37. "Semi-open adoption" means an adoption in which the adoptive parent and the birth parent agree to share some personally identifying information or to have one meeting at the time of adoption and which may include some form of limited communication in the future, such as exchange of annual letters or photographs.
38. "Social study" or "home study" means the investigation an adoption entity performs, pursuant to A.R.S. § 8-112, after a petition for adoption has been filed.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6502. Central Adoption Registry: Information Maintained; Confidentiality**

- A.** The Department shall maintain and keep current the Central Adoption Registry in accordance with A.R.S. § 8-105(O). The Registry shall include the following current information for each child or adoptive parent listed on the Registry:
- The child's availability for adoptive placement,
  - The adoptive family's certification status,
  - The adoptive family's availability for adoptive placement, and
  - The type of child the adoptive family is open to considering for adoption.
- B.** Upon request, the Department shall provide personally identifiable Registry information to:
- Licensed adoption agencies, including out-of-state agencies;
  - Adoption registries and exchanges; and
  - The Court.
- C.** Before providing information, the Department shall obtain, from the person requesting the information, the following:
- The name and affiliation of the person requesting the information;
  - The reason for the request; and
  - If the requesting party is other than a court representative, a signed statement acknowledging that the information is confidential and promising not to release the information to anyone except as allowed by A.R.S. §§ 8-120 and 8-121.
- D.** In lieu of the signed statement described in subsection (C)(3), the Department shall accept a signed commitment to treat all Registry information in accordance with the provisions of subsection (C)(3). The signed commitment is effective for one year and shall be annually renewed.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6503. Expired****Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1722, effective July 29, 2011 (Supp. 11-3).

**R6-5-6503.01. Expired****Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1722, effective July 29, 2011 (Supp. 11-3).

**R6-5-6504. Department Adoption Services**

- A.** The Department provides the following adoption services in accordance with the limitations and provisions of A.R.S. Title 8, Chapter 1, Article 1:
- Recruiting prospective adoptive parents;
  - Informing persons interested in adopting a child about the adoption process;
  - Conducting certification investigations of prospective adoptive parents as provided in A.R.S. § 8-105(C), (D), and (E);
  - Preparing certification reports as provided in A.R.S. § 8-105(E) and (H);
  - Taking adoption consents from birth parents;
  - Preparing non-identifying, preplacement information on adoptive children for adoptive parents, as required by A.R.S. § 8-129(A);
  - Submitting the names and profiles of adoptable children and certified adoptive parents for listing in the Central Adoption Registry;
  - Preparing children for adoptive placement;
  - Matching adoptable children with certified adoptive parents;
  - Placing adoptable children in the homes of certified adoptive parents;
  - Investigating and reporting to the court on the suitability of particular placements as provided in A.R.S. § 8-105(F) and (I);
  - Monitoring adoption placements during the placement supervision period;
  - Providing services to placed children and adoptive families to assist with family adjustment to the adoption placement;
  - Conducting social studies pursuant to A.R.S. § 8-112 and preparing final reports to the court; and
  - Assisting county attorneys by providing legal documents to enable families to complete the adoption process.
- B.** When performing adoption services, the Department shall adhere to the standards established for adoption agencies in Articles 66 and 70.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6505. Department Procedures for Processing Certification Applications**

- A.** Upon receipt of a certification application, the Department shall mail the applicant written notice that the application is either complete or incomplete. An application is complete when it contains the information and supporting documentation described in R6-5-6604. If the application is incomplete, the notice shall specify what information is lacking.



- B. An applicant with an incomplete application has 30 calendar days from the date of the notice to provide the missing information. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to apply for certification, shall apply anew.
- C. Upon receipt of a complete application, the Department shall decide whether to accept the application for processing, according to the priority schedule listed in R6-5-6506, and the availability of the Department's resources. If the Department cannot accept the application, the Department shall return the original application and all supporting documentation to the applicant.
- D. After the Department accepts the completed application, the Department shall mail the applicant written notice of the acceptance and shall complete the certification investigation in accordance with the procedures specified in R6-5-6605 within 90 days of the date of notice. The Department shall prepare a certification report in accordance with R6-5-6606.
- E. The Department shall process a renewal application in accordance with the requirements of this rule and R6-5-6607.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6506. Department Priorities for Receipt of Services**

The Department shall accept and process certification applications and render adoption services according to the following priority schedule:

- 1. First priority: applicants seeking to adopt a particular adoptable child with special needs;
- 2. Second priority: applicants who wish to adopt a child with special needs;
- 3. Third priority: applicants who have indicated they would consider adopting a child with special needs;
- 4. Fourth priority: applicants for whom the court has ordered the Department to do a certification investigation and report; and
- 5. Fifth priority: all other applicants.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6507. Department Recruitment Efforts**

The Department shall actively recruit persons to adopt children with special needs by:

- 1. Publicizing the need for such adoptive parents;
- 2. Registering adoptable children, as appropriate, with the following:
  - a. The Central Adoption Registry,
  - b. Arizona adoption agencies,
  - c. The National Adoption Exchange,
  - d. The Arizona Adoption Exchange Book, and
  - e. Other exchange books and publications;
- 3. Advising prospective adoptive parents of the availability of children with special needs, the procedures involved in adopting such children, and the support services and subsidies which may be available to persons adopting such children; and
- 4. Other measures similar to those described in this Section.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6508. Referrals to Other Sources**

- A. The Department shall offer certified adoptive parents, who are awaiting placement through the Department, the option of referral to the following adoption resources:
  - 1. The National Adoption Exchange,
  - 2. The Arizona Adoption Exchange, and
  - 3. Other regional and national exchanges outside Arizona.
- B. Upon request, and to the extent that resources are available, the Department may assist families interested in adopting a child with special needs with registration on the National Adoption Exchange and other regional and national exchanges outside Arizona. Such assistance may include sending the family's application to other adoption exchanges or computer banks.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6509. Fees**

- A. The Department shall charge the following fees for performing adoption services:
  - 1. \$800.00 for performing a certification investigation and preparing a certification report, which is due with an applicant's completed application form; and
  - 2. \$50.00 for performing a records search for a confidential intermediary, as set forth in A.R.S. § 8-134.
- B. The Department may waive or defer payment of part or all of a certification fee if the applicant demonstrates and the Department finds that payment of a fee would:
  - 1. Cause the applicant financial hardship,
  - 2. Be detrimental to an adoptive child, or
  - 3. Preclude the applicant from making application.
- C. An applicant who seeks a fee waiver or deferral shall file a written request for waiver explaining the reason for the request.
- D. The Department shall act on the request within 14 calendar days of receiving the request. If the Department denies the request, the Department shall notify the applicant of the denial in writing and advise the applicant to submit the fee to complete the application. Denial of a fee waiver is not appealable.

**Historical Note**

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6510. International Adoptions**

- A. The Department shall make available to prospective adoptive parents interested in adopting a foreign-born child, the names of international adoption agencies.
- B. The Department shall not provide adoptive supervision services to international adoption agencies unless there is no other resource to do so within the county where the child is placed, and the Department has the resources available to provide supervision without exceeding the standards for acceptable caseloads prescribed in R6-5-7020.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6511. Termination of Services**

- A. The Department may terminate services to an adoptive parent in the following circumstances:
  - 1. A child is placed, the adoption is finalized, and no further adoption-related services are required;

2. The prospective or certified adoptive parent requests closure before receiving a child for placement;
3. The prospective or certified adoptive parent ceases to be a resident of Arizona before receiving a child for placement;
4. The court declines to certify the prospective adoptive parent;
5. The prospective adoptive parent refuses to comply with requirements set forth in A.R.S. Title 8, Chapter 1, Article 1, or Articles 65 or 66 of these rules; or
6. The prospective adoptive parent fails to submit a completed certification application within 90 days of the date on which the Department sent the person an application form.

- B.** The Department may terminate services to an adoptive child when:
1. The Court issues a final adoption order; or
  2. The child's case management team determines that adoption is no longer the most appropriate case plan for the child, and the Department provides alternate services consistent with the child's new case plan.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

### ARTICLE 66. ADOPTION SERVICES

#### R6-5-6601. Definitions

The definitions in R6-5-6501 apply in this Article.

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).  
Amended effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6602. Recruitment

- A.** When recruiting clients, an adoption entity shall comply with the requirements of this Section.
- B.** The adoption entity shall conduct recruitment efforts pursuant to a written plan, which shall describe:
1. Specific recruitment goals, including:
    - a. Number and composition of adoptive parents the entity will serve; and
    - b. The type of children the entity will accept for placement, if limited as to age, race, or other specific characteristics;
  2. Methods of recruitment;
  3. The number and professional qualifications of staff designated to handle recruitment; and
  4. The means by which the adoption entity shall fund its recruitment efforts.
- C.** The adoption entity's recruitment efforts shall be consistent with the personal characteristics of the children the entity has available for adoption and reasonably expects will become available through the entity.
- D.** An adoption entity shall not:
1. Promise to place more children than the entity's prior history shows it can reasonably expect to place,
  2. Promise to place a child in less time than the average waiting period demonstrated by the entity's past practice,
  3. Promise that an adoption will be subsidized prior to formal approval of an adoption assistance agreement which meets the requirements of A.R.S. § 8-141 et seq., or
  4. Make any other statements or promises the entity knows or reasonably should know are false, misleading, or inaccurate.

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6603. Orientation: Persons Interested in Adoption

- A.** Prior to accepting a certification application from a person contemplating adoption of a child, or an application for placement from a person who intends to seek a placement through the entity, an adoption entity shall provide the person with adoption orientation, which shall explain the following:
1. The adoption process, including all legally mandated procedures and estimated time-frames for completion of such procedures;
  2. The adoption entity's policies and procedures that directly affect services to adoptive parents;
  3. The adoption entity's fee structure and written fee agreement;
  4. The types and number of children the agency typically has had and reasonably expects to have available for adoption placement and the average length of time between certification and placement;
  5. The Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in R6-5-7034;
  6. The function of the Central Adoption Registry and the adoptive parent's right to decide whether to be included in the Registry;
  7. Confidentiality requirements, open adoptions, and the confidential intermediary program described in A.R.S. § 8-134; and
  8. The requirements prescribed in A.R.S. § 8-548.07, to reimburse AHCCCSA for the cost of prenatal care and delivery of a child placed pursuant to the ICPC.
- B.** A person who is already knowledgeable about all or part of the matters listed in subsection (A) may waive orientation on those matters which are familiar, with the approval of the adoption entity. A person may be knowledgeable due to a prior adoption through an Arizona adoption entity, or employment in adoption services, or for other similar reasons.
- C.** An adoption entity shall maintain written documentation showing that any person who has applied to the entity for certification or for placement of a child has received the orientation described in subsection (A), as prescribed in R6-5-7027(1), or has obtained a waiver as prescribed in subsection (B). If some or all orientation is waived, the adoption entity shall document the matters waived and the reasons for the waiver.
- D.** An adoption entity shall not charge a person for anything other than a certification application fee, or enter into an adoption fee agreement with a person, until the person has received the orientation described in subsection (A).

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).  
Repealed effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6604. Application for Certification; Fees; Waiver

A person who wishes to become certified as an adoptive parent shall apply for certification as provided in A.R.S. § 8-105(A). An adoption entity shall require an applicant to provide at least the following information:

1. Personally identifying information for each prospective adoptive parent, including:
  - a. Name and date of birth;
  - b. Social Security number;
  - c. Race and nationality;

- d. Physical description;
  - e. Current address and duration of Arizona residency; and
  - f. Marital history; and
  - g. The name, address, and phone number of immediate family members, including emancipated adult children;
  2. The name, birthdays, and social security number of persons residing with the applicant;
  3. A listing of the applicant's insurance policies, including any insurance that may be available to cover the medical expenses of a birth mother or adoptive child; the applicant shall specify the name of the insured, the insurance policy number, and the effective dates of coverage;
  4. A current financial statement which shall describe the applicant's assets, income, debts, and financial obligations;
  5. A physician's statement as to the applicant's current physical and mental health;
  6. A medical and psychological history on the applicant and the applicant's household family members; such history may be a self-declaration of past physical and mental illness;
  7. The applicant's employment history;
  8. The applicant's social history;
  9. A statement from the applicant as to the type of child the applicant seeks to adopt and whether the applicant desires to adopt or would consider adopting a child with special needs;
  10. Information on the following legal proceedings in which the applicant has been a party:
    - a. Dependency actions,
    - b. Severance or termination of parental rights actions,
    - c. Child support enforcement actions,
    - d. Actions involving allegations of child maltreatment,
    - e. Adoption proceedings, or
    - f. Criminal proceedings other than minor traffic violations;
  11. The applicant's prior history of adoption certification, including prior applications for certification and the dates of any certification denials;
  12. An inquiry as to whether the applicant wishes to be listed on the Registry;
  13. A fingerprint card on each applicant; and
  14. The names, addresses, and phone numbers of five personal references who have known the applicant at least two years and who can attest to the applicant's character and fitness to adopt. At least three references shall not be related to the applicant by blood or marriage.
- c. Include at least one separate interview with each member of the adoptive family's household who is age 5 or older; and
  - d. Include at least one joint interview with both adoptive parents if the adoptive family is a couple;
  2. Written statements from and personal contact (either a face-to-face meeting or a telephone call) with at least three of the applicant's personal references;
  3. An inquiry as to whether the applicant wishes to be listed in the Central Adoption Registry;
  4. Verification of the applicant's financial condition through a review of one or more of the documents listed in subsection (A)(7)(g) below;
  5. A request to the Department for a check of the CPSCR to determine if the applicant has a past record of complaints of child abuse or neglect;
  6. An evaluation of the success of the placement of other children adopted by the applicant;
  7. A review of any supporting documentation the adoption entity reasonably deems necessary to determine an applicant's fitness to adopt, which may include the following:
    - a. A physician's statement regarding the physical health of the applicant's other children;
    - b. A statement from a psychiatrist or psychologist regarding the mental health of the applicant or the applicant's other household members;
    - c. Birth certificates;
    - d. Marriage certificate;
    - e. Dissolution or divorce papers and orders, including child support documentation;
    - f. Military discharge papers;
    - g. Financial statements, tax returns, pay stubs, and W-2 statements;
    - h. Bankruptcy papers;
    - i. Insurance policy information; or
    - j. Documentation showing Arizona residency.
  - B. A social worker who meets the qualifications listed in R6-5-7014 shall perform the certification investigation and shall document all personal contacts made and all information reviewed and considered during the investigation.

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).  
 Amended subsection (C) effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6606. Certification Report and Recommendation

- A. Upon completion of the certification investigation, the adoption entity shall prepare a certification report in compliance with A.R.S. § 8-105(E) and (H).
- B. In determining whether to recommend certification of an applicant, the adoption entity shall consider all factors bearing on fitness to adopt, including, but not limited to:
  1. The factors listed in A.R.S. § 8-105(E);
  2. The length and stability of the applicant's marital relationship, if applicable;
  3. The applicant's age and health;
  4. Past, significant disturbances or events in the applicant's immediate family, such as involuntary job separation, divorce, or death of spouse, child, or parent, and history of child maltreatment;
  5. The applicant's ability to financially provide for an adoptee; and
  6. The applicant's history of providing financial support to the applicant's other children, including compliance with court-ordered child support obligations.

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6605. Certification Investigation

- A. Following acceptance of a completed certification application, the adoption entity shall conduct a certification investigation which shall include, at a minimum, the following:
  1. Personal interviews with the adoptive family. Such interviews shall:
    - a. Occur on at least two separate occasions, at least one of which shall be at the adoptive family's residence;
    - b. Comprise no less than four hours of face-to-face contact, at least one hour of which shall take place at the adoptive family's residence;

- C. The certification report shall specifically note any instances where an applicant has:
1. Been charged with, been convicted of, pled no contest to, or is awaiting trial on charges of, an offense listed in A.R.S. § 46-141; or
  2. Lost care, custody, control, or parental rights to a child as a result of a dependency action or action to terminate parental rights.
- D. If the report recommends denial of certification, the adoption entity shall send the applicant written notice of the unfavorable recommendation and an explanation of the applicant's right under A.R.S. § 8-105(M) to petition the court for review. The adoption entity shall mail the notice to the applicant at least five work days prior to filing the certification report with the court.
- E. The adoption entity shall notify the prospective adoptive parent of the court's certification decision if the Court fails to do so.

**Historical Note**

Adopted effective January 18, 1978 (Supp. 78-1).  
Amended effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6607. Renewal of Certification**

- A. A certified adoptive parent who has not filed a petition for adoption within one year of the original certification order, may apply for an extension of certification, as provided in A.R.S. § 8-105(K).
- B. If the Court directs an adoption entity to investigate a certified adoptive parent who has requested a renewal of certification, the entity shall obtain, from the adoptive parent seeking renewal, the following information:
1. A copy of the request for renewal of certification;
  2. A statement of any changes in the certified adoptive parent's social, family, medical, and financial circumstances;
  3. New fingerprint clearance at least every third year following original certification;
  4. A current medical report for all members of the applicant's household at least every third year following original certification; and
  5. Such other information as the Court may request.
- C. When investigating a request for renewal of certification, the adoption entity shall, at a minimum, complete the following:
1. Conduct a face-to-face interview at the applicant's home with the applicant and the applicant's other household members over the age of 5,
  2. Investigate any change in circumstances described in the request for renewal as necessary to determine continuing fitness to adopt, and
  3. Document all action.
- D. Upon completion of the renewal investigation, the adoption entity shall prepare and file with the Court a report of the investigation, which shall contain a recommendation for or against renewal of certification.
- E. If the adoption entity recommends that certification not be renewed, the entity shall send the adoptive parent notice as prescribed in R6-5-6606(D).

**Historical Note**

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6608. Communications with Certified Parents Awaiting Placement**

Upon request, an adoption entity shall inform a certified adoptive parent awaiting placement of a child of the following:

1. The status of the parent's case;
2. The number of children the agency currently has available for adoption;
3. The number of times the parent has been considered for placement of a child;
4. The number of approved families awaiting placement of a child through the agency; and
5. The number of placements the agency made in the prior year, the number of placements the agency has made to date in the current year, and the number of placements the agency anticipates making during the remainder of the current year.

**Historical Note**

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6609. Prohibitions Regarding Birth Parents**

An adoption entity shall not:

1. Promise a birth parent that the birth parent will have future contact with the child or the adoptive parent; the adoption entity may, however, explain the concepts of open adoption and semi-open adoption;
2. Promise a birth parent that the child will be placed with a specific family or type of family, except in a direct placement adoption; the adoption entity may, however, advise the parent that it will use its best efforts to honor any placement preferences the birth parent may have, to the extent that such preference is consistent with the best interests of the child;
3. Promise a birth parent any financial or other consideration prohibited by law; or
4. Do or say anything to coerce or pressure a birth parent to sign a consent.

**Historical Note**

Adopted effective January 18, 1978 (Supp. 78-1).  
Amended effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6610. Information about Birth Parents**

- A. Before accepting a child for placement, the adoption entity shall make a good faith effort to obtain the information described in this Section from the child's birth parent, or person having custody of the child.
1. Information about each birth parent, including:
    - a. Name and any aliases used;
    - b. Address, phone number, and residential history;
    - c. Date and place of birth;
    - d. Social security number;
    - e. Race, citizenship, and any Native American tribal affiliation or membership;
    - f. Physical description;
    - g. Name of current employer and employment history;
    - h. Educational history;
    - i. Marital history and status;
    - j. Record of other births and children born to the birth parent;
    - k. Hobbies;
    - l. Future plans;
    - m. Record of arrests or convictions;
    - n. Medical history;

- o. For the birth mother, history of prenatal care, gestational substance or drug abuse, pregnancy, and delivery;
  - p. Immediate family relationships; and
  - q. Significant family events.
2. An explanation of the birth parent's decision to place the child for adoption, the factors which influenced that decision, and a record of any counseling the birth parent has received concerning the decision.
  3. A record of the birth parent's contact with the child.
  4. A statement of the birth parent's feelings about future contact with the child.
  5. A list of the birth parent's preferences regarding an adoptive home for the child.
  6. Medical history on the birth parent's own parents, siblings, grandparents, aunts, uncles, and first cousins.
  7. Information on the child being surrendered for adoption, as appropriate to the age of the child:
    - a. Developmental history,
    - b. Medical history,
    - c. Psychosocial background,
    - d. Educational history, and
    - e. Membership in or affiliation with any Native American tribe.
  8. A listing of the birth parent's insurance policies, including any insurance that may be available to cover the medical expenses of the birth mother or adoptive child; the listing shall specify the name of the insured, the insurance policy number, and the effective dates of coverage.
- B.** The adoption entity shall document all statements and information in a permanent record.

#### Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-6611. Pre-consent Conferences with Birth Parents**

- A.** The adoption entity shall have a pre-consent conference with each birth parent from whom a consent to adoption is required under A.R.S. § 8-106, to explain the following information:
1. The legal and practical consequences of executing a consent, including:
    - a. Applicable ICWA provisions; and
    - b. The fact that the consent, and all other affidavits executed in connection with an adoption, are executed under penalty of perjury;
  2. The irrevocability of a consent;
  3. The legal prohibition against paying the birth parent to execute a consent;
  4. The fact that the birth parent has no obligation to sign the consent; and
  5. The provisions of A.R.S. § 8-106(F) regarding an affidavit of potential fathers and A.R.S. § 8-548.07 regarding reimbursement to AHCCCSA.
- B.** The Pre-consent conference shall occur:
1. No earlier than 12 hours after the birth of a child if the conference was not held before the birth, as provided in subsection (B)(2);
  2. No earlier than 60 days before the anticipated due date, if the conference is held before the child's birth;
  3. At least 24 hours before presenting a birth parent with the consent form for signature; and
  4. At a time which takes into account the known medical and emotional condition of the birth parents.
- C.** The person conducting the pre-consent conference shall provide the birth parent with a sample consent form and shall convey

vey the information described in subsection (A) in a language and form that the birth parent can understand.

- D.** The person conducting the pre-consent conference shall document that the information was given and understood and shall obtain the birth parent's signature on the documentation. If the conference is telephonic as prescribed in subsection (E), the person may obtain the signature later through the mail. If the conference is not held, the person shall document the reasons, as prescribed in subsection (E).
- E.** The pre-consent conference may be telephonic and is not required if the birth parent cannot be located or refuses to participate in the conference; however, the entity shall document the reason why the conference did not occur.
- F.** If required to obtain a consent from a birth father under A.R.S. § 8-106, the adoption entity shall, prior to obtaining the birth father's signature, advise the birth father of the matters listed in subsection (A), in a form and language the birth father can understand. The advice may be included on the consent form.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1006, effective March 18, 1999 (Supp. 99-1).

#### **R6-5-6612. Consent to Adopt; Unknown Birth Parent**

- A.** A person who obtains a birth parent's signature on a consent shall not do so until the person determines:
1. That the requirements of R6-5-6611 have been met;
  2. That the birth parent is not acting under duress;
  3. That the birth parent is physically and mentally capable of exercising informed consent; and
  4. That the birth parent has revealed all information known about the identity and location of the other birth parent.
- B.** No one shall advise a birth parent to falsely state that he or she does not know the identity or location of the other birth parent.
- C.** When a birth parent professes not to know the identity or location of the other birth parent, the person taking the consent shall explain the risks and consequences of this response, including the following:
1. Potential invalidation of the adoption;
  2. Potential detriment to the child's social and physical well-being, due to lack of information concerning the unidentified birth parent's social and medical history; and
  3. Potential penalties for perjury.
- D.** The adoption entity shall document all action taken in compliance with this Section.
- E.** When a birth parent knows, but refuses to disclose, the identity or location of the other birth parent, the adoption entity shall advise the birth parent as provided in subsection (C) and shall also explain that the court may refuse to finalize the adoption.
- F.** The adoption entity shall give the birth parent a copy of the consent and retain a copy in the permanent adoption file.
- G.** The adoption entity shall request a search of the confidential register of information which the Arizona Department of Health Services maintains pursuant to A.R.S. § 8-106.01 if:
1. A birth father's identity is unknown or undisclosed, and
  2. The adoption entity believes that a search of the register may prevent disruption of a placement or an adoption.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-6613. Adoptable Child: Assessment and Service Plan**

- A.** Prior to selecting an adoptive placement for an adoptable child, the adoption entity shall:
1. Assess the child's medical, psychological, social, and developmental needs and shall design an adoptive family

- profile consistent with the child's needs and best interests;
- 2. Design a written plan of developmentally appropriate preplacement and post-placement services necessary to facilitate the child's adjustment to placement;
- 3. Assess whether the child is a potential candidate for an adoption subsidy.
- B.** The plan shall, at a minimum, include:
  - 1. Placing the child on the Registry if there is no adoptive family readily available to adopt the child;
  - 2. Giving the child a developmentally appropriate explanation of the adoption process.
- C.** The adoption entity shall provide the child with services in accordance with the child's plan.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6614. Placement Determination**

- A.** An adoption entity shall have and follow a written policy for making placement recommendations and decisions in both direct placement and agency placement adoptions.
- B.** Except as otherwise provided in subsection (C), in an agency placement adoption, the placement decision shall be made by a team which shall, at a minimum, include:
  - 1. The case manager or person who assessed the adoptable child, and
  - 2. The case manager or person who is knowledgeable about the potential adoptive families for the adoptable child.
- C.** In international adoptions, where the case worker who assessed the child is out of the country and unavailable, the agency shall include the person who is most familiar with the adoptable child's needs.
- D.** In an agency placement adoption, an adoption entity shall place an adoptable child in the adoptive setting which best meets the child's needs. In determining who can best meet the needs, the adoption entity shall consider all relevant factors, including, without limitation:
  - 1. The wishes of the child's birth parent;
  - 2. Family relationships between the child and the adoptive family members;
  - 3. The racial, cultural, and ethnic background of the child and the family members;
  - 4. The family's ability to financially provide for the child and to meet the child's emotional, physical, mental, and social needs;
  - 5. The placement of the child's siblings;
  - 6. The availability of relatives, the adoptable child's former foster parents, or other significant persons to provide support to the adoptive family and child; and
  - 7. All information in the case files of the child and the adoptive family.
- E.** The adoption entity shall document the placement decision.
  - 1. For adoptions conducted pursuant to the ICPC, the documentation shall comply with the requirements of the ICPC regarding documentation of suitability, as prescribed in A.R.S. § 8-548.
  - 2. For all other adoptions, the documentation shall include the following:
    - a. The adoptive child's critical needs and characteristics that weighed most heavily in the placement determination,
    - b. The names and general family characteristics of those adoptive parents who most closely matched the child's needs and who were most seriously considered for placement, and

- c. The reasons why the particular adoptive parent chosen for placement best matched the child's needs and characteristics.

- F.** For adoptions not covered by the ICPC, the adoption entity may document the placement decision in a file or placement log that is separate from clients' case files.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6615. Provision of Information on Placed Child**

After selecting an adoptive placement for a child, and before placing the child with the chosen adoptive parent, the adoption entity shall provide the adoptive parent with all nonidentifying information available on the child, including, without limitation, the following:

- 1. All records concerning the child's medical, social, legal, family, and educational background;
- 2. All records concerning the birth parents' medical, social, legal, family, and educational background;
- 3. The medical and social background on the child's other immediate family members, including siblings and birth grandparents;
- 4. The child's plan of adoption services, as described in R6-5-6613; and
- 5. Advice on adoption subsidy that may be available for the child.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6616. Transportation**

An adoption entity which transports adoptive children shall:

- 1. Ensure that any such entity or person who transports an adoptive child is informed of the child's medical needs and is capable of meeting any medical needs that are reasonably likely to arise during transport;
- 2. Not leave an adoptive child unattended during transportation unless the adoption entity has determined, and documented in the child's record, that the child is physically and emotionally capable of traveling alone;
- 3. Require all persons who provide transport to carry personal identification and a written statement from the agency describing the person's authority and responsibilities while performing transport duties;
- 4. Require proof of identification from any person accepting temporary or permanent responsibility for an adoptive child during the course of placement; and
- 5. Document all transportation plans and actual transportation events in the child's record.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6617. Expired****Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1722, effective July 29, 2011 (Supp. 11-3).

**R6-5-6618. Placement Services**

- A.** An adoption entity shall make counseling services available to the adoptive family as the entity deems reasonable and necessary to facilitate the child's acceptance into the family and to preserve stability. The adoption entity may make such services available by advising the adoptive family that such services may be beneficial and referring the adoptive family to community resources and providers.

- B. The adoption entity shall make information on adoption related educational and supportive resources available to adoptive families.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6619. Post-placement Supervision: Non-foster Parent Placements

- A. When a child is placed for adoption with a person who is not the child's foster parent, a case manager from the adoption entity shall visit the home within 30 calendar days of the date of adoptive placement to:
1. Ensure that the adoptive parent received all available nonidentifying information on the child;
  2. Address any questions or concerns the adoptive parent or child may have about the adoption process or placement;
  3. Ensure that the family has addressed the educational needs of a school-age child; and
  4. Ensure that an adoptive parent who works has made appropriate child care arrangements.
- B. Following the initial placement visit described in subsection (A), a case manager from the adoption entity shall:
1. Visit the adoptive family at least once every three months until the adoption is finalized except, when the adoptive child is a child with special needs, the visits shall occur at least once a month. During the first six months following the initial placement visit, at least alternating visits shall occur at the adoptive family's home;
  2. Interview all members of the adoptive family's household during the placement supervision period; and
  3. Discuss the following issues with the adoptive parent if appropriate in light of the child's age and development:
    - a. How the presence of the child has changed familial relationships;
    - b. How the child and the extended family view each other;
    - c. The role each family member has assumed regarding child care and discipline;
    - d. How the parent is coping with the needs and demands of the placed child;
    - e. How the child challenges or tests the placement and how the family reacts to these episodes, including any feelings of insecurity about the propriety of the family members' response;
    - f. How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and
    - g. How the child has adjusted to the school environment; and
  4. If developmentally appropriate, privately interview the child about the child's feelings about the adoption and the matters listed in subsection (B)(3), at each supervisory visit.
- C. The case manager shall document all contacts and communications made pursuant to this Section.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

Amended by final rulemaking at 5 A.A.R. 1006, effective

March 18, 1999 (Supp. 99-1)

#### R6-5-6620. Post-placement Supervision: Foster Parent Placements

- A. When a foster parent plans to adopt a foster child who is age 5 or older, a case worker from the adoption entity shall privately interview the child and all members of the adoptive family

household who are age 5 or older about their feelings towards the adoption, before the adoption consent is signed.

- B. When a child is placed for adoption with a person who has been a foster parent to the child, a case manager from the adoption entity shall conduct home visits at least every two months from the time legal consent for adoption has been signed until the finalization of adoption. If the adoptive child is a child with special needs, the case manager shall visit at least once a month.
- C. During such visits, the case manager shall:
1. If developmentally appropriate, privately interview the child to discuss the child's feelings about the adoption; and
  2. Interview all members of the adoptive family household, including children, if developmentally appropriate, to discuss, at a minimum, the matters listed in R6-5-6619(B)(3).
- D. The case manager shall document all contacts and communications made pursuant to this Section.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6621. Protracted Placements

If an adoption is not finalized within two years from the date of consent, and the child is still placed in the adoptive home, the agency handling the adoption shall provide the Department with written documentation explaining the reason why the adoption has not been finalized, no later than 30 calendar days after the two-year period has ended.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-6622. Finalizing the Placement

An adoption entity shall cooperate with the adoptive parent and the attorney, if any, retained by the adoptive parent, to finalize the adoption.

1. The entity shall provide all information and documents needed to finalize the adoption and shall file a final written report to the court at least 14 calendar days before the final adoption hearing, or at such other time as the Court may require. The report shall include the information listed in this subsection, unless the entity has already provided this information in an earlier report, and the information has not changed since the earlier report.
  - a. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;
  - b. The name, age, and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parent;
  - c. The entity or other source from which the adoptive parent received the child to be adopted;
  - d. The circumstances surrounding the surrender of the child to the entity;
  - e. The results of the entity's evaluation of the child and of the adoptive parent, including a description of the care the child is receiving and the adjustment of the child and parent, and a summary statement of the entity's recommendation to the court regarding finalization;
  - f. A full description of any property belonging to the child to be adopted;
  - g. An itemized statement of all fees and costs the adoptive parent paid in connection with the adoption, as prescribed in R6-5-6503.

2. If developmentally appropriate, the entity shall solicit and consider the child's wishes concerning adoption.
3. The entity shall notify AHCCCSA of any potential third party payors, as prescribed in A.R.S. § 36-2903.01(T), if the entity has not already done so.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6623. Placement Disruption**

- A. When a placement fails, the adoption entity shall provide services, including counseling to the family and child, to help them cope with the loss and separation.
- B. An adoption entity shall have and follow written procedures for an adoptive placement disruption. The procedures shall include:
  1. Provision of counselling services to the adoptive family and child as needed; and
  2. Provision for placement of the child in another adoptive home or other developmentally appropriate living arrangement.
- C. The agency shall document the reasons for the disruption and shall take such information into account when making future placements for the adoptive parent and the child.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-6624. Confidentiality**

Any person who participates in an adoption or provides adoption services shall abide by the confidentiality requirements prescribed in A.R.S. §§ 8-120, 8-121, and 36-2903.01(S).

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).

**ARTICLE 67. ADOPTION SUBSIDY****R6-5-6701. Definitions**

In addition to the definitions in A.R.S. § 8-141, the following definitions apply in this Article:

1. "Adoption/CPS Specialist" means the Department or private agency staff person who is responsible for managing the child's case prior to the adoption finalization.
2. "Adoption subsidy" means the same as in A.R.S. § 8-141 and may include one or more of the following:
  - a. Medical, dental, and mental health subsidy;
  - b. Maintenance subsidy;
  - c. Special services subsidy; and
  - d. Reimbursement of nonrecurring adoption expenses.
3. "Adoption Subsidy Program" means a unit within the Division of Children, Youth and Families designated to administer adoption subsidy.
4. "Adoptive parent" means an adult whom the court has certified or approved to adopt a child, or an adult who has adopted a child.
5. "Adoption subsidy supervisor" means a Department employee who is responsible for the Adoption Subsidy Program within defined geographic areas and whom the Department has authorized to approve an adoption subsidy agreement.
6. "AHCCCS" means the Arizona Health Care Cost Containment System, which is the state's program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29.
7. "AHCCCS hospital reimbursement system" means the payment structure that AHCCCS uses to pay for inpatient and outpatient hospital services.
8. "Complete adoption subsidy application" means a packet containing:
  - a. A Department-provided "Adoptive Family Subsidy Application" form that the adoptive parent and the Adoption/CPS Specialist and Adoption/CPS Specialist supervisor have completed and signed.
  - b. The supporting documentation and information requested in the "Adoptive Family Subsidy Application."
9. "Debilitating" means a lifelong, progressive, or fatal condition characterized by physical, mental, or developmental impairment that impedes an individual's ability to function independently.
10. "Department" or "DES" means the Arizona Department of Economic Security.
11. "Diagnose" means to identify a physical, psychological, social, educational, or developmental condition according to the accepted standards of the medical, mental health, or educational professions.
12. "Emergency situation" means a circumstance that, if unaddressed, would be detrimental to a child's life, health, or safety.
13. "Foster Family Care payment" means a monetary payment the Department makes to a foster parent to provide substitute care for a child when the child's own family cannot care for the child for a temporary or extended period of time.
14. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
15. "Qualified professional" means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose conditions or provide medical, dental, mental health, or educational services.
16. "Racial or ethnic factors" means Black, Hispanic, Native American, Asian, or other heritage that has been determined to be a barrier to a child being adopted.
17. "Sibling relationship" means two or more children who are related by blood or by law, and whom the same family has adopted.
18. "Special allowance" means funds provided for clothing or personal expenses, therapeutic or personal attendant care, and other specialized payments such as emergency clothing, education, and gift allowances.
19. "Special needs" means one or more of the following conditions which existed before the finalization of adoption:
  - a. Physical, mental or developmental disability.
  - b. Emotional disturbance.
  - c. High risk of physical or mental disease.
  - d. High risk of developmental disability.
  - e. Age of six or more years at the time of application for an adoption subsidy.
  - f. Sibling relationship.
  - g. Racial or ethnic factors.
  - h. High risk of severe emotional disturbance if removed from the care of his foster parents.
  - i. Any combination of the special needs described in this paragraph. (A.R.S. § 8-141)
20. "SSI" means supplemental security income, a direct government benefit available under Title XVI of the Social Security Act.
21. "Standard of care" means a medical or psychological procedure or process that is accepted as treatment for a specific illness, injury, medical or psychological condition



through custom, peer review, or consensus by the professional medical or mental health community.

22. "Title IV-E" means section 473 of Title IV of the Social Security Act, 42 U.S.C. 673, which establishes the federal adoption assistance program.
23. "Title XIX" means Medicaid, as defined by Section 1900, Title XIX, of the Social Security Act, 42 U.S.C. 1396.
24. "Title XX" means the Social Services Block Grant, as defined by Section 2001, Title XX, of the Social Security Act, 42 U.S.C. 1397.
25. "Undiagnosed pre-existing special need condition" means a physical, mental or developmental disability or emotional disturbance that existed before a court finalized the child's adoption and that a qualified professional did not confirm before the child's adoption.

#### Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

#### R6-5-6702. Eligibility Criteria

- A. An Arizona child shall be eligible for adoption subsidy when the child is:
  1. In the care, custody, and control of the Department or other public or private child welfare agency licensed in Arizona, or was previously adopted and received adoption subsidy;
  2. Legally free for adoption;
  3. Legally present in the United States; and
  4. Determined to be a child with special needs as defined by Title IV-E of the Social Security Act and A.R.S. Title 8, Chapter 1, Article 2. To meet the requirements, the Department shall determine that:
    - a. The child cannot or should not be returned to the parent's home;
    - b. The child cannot be placed with adoptive parents without adoption subsidy due to a specific factor, condition, or special need of the child; and
    - c. A reasonable but unsuccessful effort was made to place the child without an adoption subsidy, unless the Department determined that it was not in the child's best interest to place the child with another family because of the child's significant emotional ties with the prospective adoptive parents while in their care as a foster child.
- B. To qualify for Title IV-E adoption subsidy, a child shall also meet the additional eligibility criteria required in 42 U.S.C. 673(a)(2).

#### Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

#### R6-5-6703. Eligibility Determination

- A. The adoptive parent shall submit a complete adoption subsidy application to the Department Adoption Subsidy Program prior to the finalization of the adoption. An application is complete when the Adoption Subsidy Program receives the application and all supporting documentation. Documentation may vary according to the conditions of the child and may include the recommendations of qualified professionals.
- B. The Department shall review the application and determine eligibility according to the following:
  1. The Department shall approve eligibility for adoption subsidy if a child meets the eligibility criteria listed in

R6-5-6702. If the Department approves eligibility, the Department shall create an adoption subsidy agreement that the adoptive parent and the adoption subsidy supervisor or designee shall sign before the court enters the final order of adoption.

2. The Department shall deny eligibility for adoption subsidy if a child does not meet the eligibility criteria listed in R6-5-6702. If the Department denies adoption subsidy, the Department shall send notice to the adoptive parent that explains the reason for denial, the applicant's right to appeal, and the time-frame to file an appeal.

#### Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

#### R6-5-6704. Adoption Subsidy Agreement

- A. The Department shall create an adoption subsidy agreement that lists the scope and nature of the subsidies provided, including:
  1. The child's documented pre-existing conditions;
  2. The types of subsidy approved;
  3. The amount or rates as applicable to the types of subsidy approved; and
  4. The specific terms and conditions of the agreement.
- B. The adoption subsidy agreement shall become effective if the following occurs prior to the finalization of the adoption:
  1. The adoptive parent signs the agreement and returns it to the Department Adoption Subsidy Program, and
  2. The adoption subsidy supervisor or designee signs the agreement.

#### Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

#### R6-5-6705. Medical, Dental, and Mental Health Subsidy

Adoption subsidy provides medical, dental, and mental health subsidy in the form of AHCCCS/Medicaid coverage to a child in the Adoption Subsidy Program who is determined eligible for AHCCCS/Medicaid. The relevant agency in the state in which the child resides determines AHCCCS/Medicaid eligibility.

#### Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

#### R6-5-6706. Maintenance Subsidy

- A. Maintenance subsidy is the monthly payment paid to the custodial adoptive parent to assist with the costs directly related to meeting the adopted child's needs, including but not limited to child care, health insurance co-payments and deductibles, and supplemental educational services for the child. It is not expected to cover all the daily living expenses of the adopted child. The Department and the adoptive parent shall negotiate the amount of maintenance subsidy based on a child's current special needs and the family's circumstances.
  1. As required by A.R.S. § 8-144(B), the amount of the maintenance subsidy shall not exceed the payments allowable under foster family care, not including special allowances.
  2. The Department shall deduct private or public monetary benefits, such as benefits received through Title II of the Social Security Act, paid to the child from the monthly

maintenance subsidy, as allowed under state or federal law. The adoptive parents shall report the receipt of any monetary benefits for the child to the Adoption Subsidy Program.

**B. Payment of Maintenance Subsidy**

1. The Department shall not begin maintenance subsidy payments prior to the effective date of the adoption subsidy agreement.
2. The Department shall issue maintenance subsidy payments monthly to the adoptive parent as specified in the adoption subsidy agreement.

**C. Renegotiation of the Maintenance Rate**

1. The Department or the adoptive parent may initiate a change in the maintenance subsidy rate if there are changes in the child's needs.
2. The adoptive parent shall provide the Department with documentation supporting the requested change in the maintenance subsidy rate.
3. If the child is in the care or custody of an agency or individual other than the adoptive parents, the Department shall request, and the adoptive parents shall provide, documentation of the adoptive parents' continued legal and financial responsibility for the child.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Amended by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6707. Special Services Subsidy**

- A.** Special services subsidy is financial assistance for extraordinary, infrequent, or uncommon needs related to a special needs condition specified in the adoption subsidy agreement.
- B.** Special services shall be:
1. Related to a special needs condition listed in the adoption subsidy agreement;
  2. Necessary to improve or maintain the adopted child's functioning as documented by an appropriate qualified professional. The Adoption Subsidy Program shall review the documentation at least annually;
  3. Provided by a qualified professional;
  4. Provided in the least restrictive environment and as close as possible to the family's residence;
  5. In accordance with the "Standard of Care"; and
  6. Not otherwise covered by or provided through maintenance subsidy, medical subsidy, dental subsidy, mental health subsidy, or other resources for which the adopted child is eligible.
- C.** The adoptive parent shall submit the special services request to the Adoption Subsidy Program and receive approval from the Adoption Subsidy Program prior to the adoptive parent's incurring the specified expense. The request shall include:
1. Documentation from a qualified professional that the service is necessary; and
  2. Documentation that the adoptive parent had requested the service and the service provider had denied the request or documentation that the service is not available from other potential funding sources, such as AHCCCS/Medicaid, private insurance, school district, or other community resources.
- D.** Special services subsidy shall not include:
1. Payment for services to meet needs other than the pre-existing special needs conditions specifically listed in the adoption subsidy agreement;
  2. Payment for medical or dental services usually considered to be routine, such as well-child checkups, immunizations, and other services not related to the child's special needs conditions in the adoption subsidy agreement;

zations, and other services not related to the child's special needs conditions in the adoption subsidy agreement;

3. Payment for health-related services that are not medically necessary, as determined by a qualified professional;
  4. Payment for social or recreational services such as routine child care, dance lessons, sports fees, camps, and similar services; and
  5. Payment for educational services that are not necessary to meet the special needs conditions specifically listed in the adoption subsidy agreement, or the services for which the school district is responsible.
- E.** The Department may request an independent review by a qualified professional of a special services request to determine the necessity for medical, dental, psychological, or psychiatric testing or services, or to evaluate the appropriateness of the treatment plan or placement.
- F.** The Department shall issue reimbursements to the adoptive parent for approved special services. If requested by the adoptive parent due to the adoptive parent's inability to pay, the Department may pay the service provider directly.
- G.** Special services subsidy reimbursement is limited as follows:
1. The Department shall reimburse in-state and out-of-state inpatient and outpatient hospital services according to the AHCCCS hospital reimbursement system, as required by A.R.S. § 8-142.01(A), if the adoptive parent has obtained prior approval for the service from the Department. Prior approval is not required in an emergency situation.
  2. The Department shall not reimburse special services subsidy amounts in excess of the rates allowed by the Department or AHCCCS. The Department shall use the lowest applicable rates as established by AHCCCS, the DES Comprehensive Medical and Dental Plan (CMDP), or rates established by the Adoption Subsidy Program to be customary and reasonable.
  3. The Department shall not pay for requests that the adoptive parent or provider submits more than nine months after the date of service for which the adoptive parent or provider requests payment.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Amended by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6708. Nonrecurring Adoption Expenses**

- A.** Nonrecurring adoption expenses are reasonable and necessary expenses directly related to the legal process of adopting a child with special needs. Allowable expenses include adoption fees, court costs, attorney's fees, fingerprinting fees, home study fees, costs for physical and psychological examinations, costs for placement supervision, and travel expenses necessary to complete the adoption. The Adoption Subsidy Program does not cover expenses related to visiting and placing the child.
- B.** Reimbursement of nonrecurring adoption expenses is subject to the limitations in A.R.S. § 8-164 and to actual documented expenses not to exceed \$2000 per child.
- C.** To be eligible for reimbursement of nonrecurring adoption expenses, the child shall meet the requirements of A.R.S. § 8-163.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6709. Annual Review; Reporting Change**

- A.** Each year, the Department shall send a review form to the adoptive parent requesting that the parent provide:
1. Information indicating that the parent remains legally and financially responsible for the child;
  2. Information on any change in benefits, such as benefits received through Title II of the Social Security Act;
  3. Information on any change in circumstances, including changes in residence, marital status, educational status, or other similar changes; and
  4. A description of any changes in the child's special needs conditions that are listed in the adoption subsidy agreement.
- B.** The adoptive parent shall provide the Department with the requested information within 30 days of the adoptive parent's receipt of the review form.
- C.** The adoptive parent shall notify the Department in writing within five calendar days when any of the following occurs:
1. The adoptive parent is no longer legally responsible for the child,
  2. The adoptive parent is no longer providing support to the child,
  3. The child is no longer residing in the adoptive parent's home,
  4. The child has graduated from high school or obtained a general equivalency degree (GED),
  5. The child has married, or
  6. The child has joined the military.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6709 repealed, former Section R6-5-6710 renumbered and amended as Section R6-5-6709 effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6710. Termination of Adoption Subsidy**

The Department shall terminate an adoption subsidy when any of the following occurs:

1. The child turns 18 years old and is not enrolled in and attending high school or a program leading to a high school diploma or general equivalency degree (GED);
2. The child is aged 18 through 21, has been continuously enrolled in school, and either drops out of school, graduates from high school, or obtains a general equivalency degree (GED);
3. The child's 22nd birthday;
4. The adoptive parent is no longer legally responsible for the child;
5. The adoptive parent is no longer providing support to the child;
6. The child marries;
7. The child joins the military;
8. The special needs conditions of the child no longer exist; or
9. The adoptive parent requests termination.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6710 renumbered and amended as Section R6-5-6709, former Section R6-5-6711 renumbered and amended as Section R6-5-6710 effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6711. New or Amended Adoption Subsidy Agreement**

An adoptive parent may apply for a new or amended adoption subsidy agreement after the adoption is final only upon documentation of an undiagnosed pre-existing special need condition that existed before the finalization of the adoption.

1. The adoptive parent shall send the Department a written request for adoption subsidy with documentation from a qualified professional diagnosing the special need condition and confirming that it existed before the final order of adoption.
2. The adoptive parent and the Department shall follow the procedures in R6-5-6703 for processing applications and determining eligibility.
3. If the Department finds that the child has an undiagnosed pre-existing special need condition that, if diagnosed prior to the adoption, would have met the eligibility criteria listed in R6-5-6702, the Department shall grant a new subsidy or amend the adoption subsidy agreement to cover this condition.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6711 renumbered and amended as Section R6-5-6710, former Section R6-5-6713 renumbered and amended as Section R6-5-6711 effective June 19, 1979 (Supp. 79-3). Section repealed; new Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6712. Appeals**

- A.** When the Department denies, reduces, or terminates an adoption subsidy, the Department shall send the adoptive parent written notice of the action and the parent's right to appeal.
- B.** The notice shall contain:
1. An explanation of the action taken and the reason for the action,
  2. A statement of the adoptive parent's right to appeal the action, and
  3. The time-frame for filing an appeal.
- C.** The request for appeal shall:
1. Specify the action being appealed;
  2. The reasons for the appeal; and
  3. A brief summary of why the Department's action was erroneous, unlawful, or improper.
- D.** The Office of Appeals shall conduct the appeal pursuant to A.R.S. § 8-145.
- E.** The rules of the Department in Article 24 of this Chapter apply to all services provided under this Article.

**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed effective June 19, 1979 (Supp. 79-3). New Section made by final rulemaking at 18 A.A.R. 1449, effective August 6, 2012 (Supp. 12-2).

**R6-5-6713. Renumbered****Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Renumbered and amended as Section R6-5-6711 effective June 19, 1979 (Supp. 79-3).

**ARTICLE 68. REPEALED****R6-5-6801. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6802. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6803. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6804. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6805. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6806. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6807. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

**R6-5-6808. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

# **ARTICLE 69. CHILD PLACING AGENCY LICENSING STANDARDS**

**R6-5-6901. Objectives**

The objective of this Article is to establish licensing and operating standards to promote quality services for children and unmarried mothers whose needs are not adequately met in their family homes.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6902. Authority**

A.R.S. §§ 8-501 through 8-520 and 46-134.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6903. Definitions**

- A. "Adult." Any person 18 years of age or older.
- B. "Authorized representative." A designated employee of the Department.
- C. "Casework supervisor." A person who holds a Bachelor's degree from a university or college and has at least three years of casework experience in a certified or licensed family/child welfare agency.
- D. "Caseworker." A person who holds a Bachelor's degree from a university or college and who has training and/or experience in the field of behavioral science.
- E. "Child." Any person under 18 years of age.
- F. "Child placing agency." A child welfare agency which is authorized in its license to place children.
- G. "Department." The Arizona State Department of Economic Security.

- H. "Division." The Arizona State Department of Economic Security.
- I. "Executive Director." The person responsible for overall administration of the child placing agency; also referred to as Administrator, or Director.
- J. "Foster care." A social service which, for a planned period, provides substitute care for a child when its own family cannot care for it for a temporary or extended period of time. Foster care may be in a private family home or a group home.
- K. "Foster child." A child placed in a foster home or child welfare agency.
- L. "Foster home." A home maintained by an individual or individuals having the care or control of children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals (A.R.S. § 8-501(4)).
- M. "License." The legal authorization to operate a child placing agency issued by the Arizona Department of Economic Security.
- N. "Licensed medical practitioner." Any physician or surgeon licensed under the laws of this State to practice medicine pursuant to Title 32, Chapter 13 and 17 (A.R.S. § 36-501(4)).
- O. "Licensing." Includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
- P. "Parent or parents." The natural or adoptive parent or parents of the child.
- Q. "Provisional license." A temporary license to operate a Child Placing Agency, issued by the Arizona Department of Economic Security for a period not to exceed six months; a provisional license is issued to an agency that is temporarily unable to conform to all licensing standards and where the deficiencies are minor, correctable and not potentially injurious to the safety or welfare of a child and the agency agrees to correct the deficiency or deficiencies, and where there is a demonstrated need for the services. A provisional license is not renewable.
- R. "Receiving foster home." A licensed foster home suitable for immediate placement of children when taken into custody or pending medical examination and court disposition which is designated as a receiving foster home and it is licensed.
- S. "Regular foster home." A licensed foster home suitable for placement of not more than five minor children.
- T. "Regular license." A license to operate a Child Placing Agency, issued by the Arizona Department of Economic Security; a regular license which may be issued following a provisional license is valid for one year from the date of issuance and must be renewed annually.
- U. "Social worker." A person who holds a Master of Social Work degree from an accredited school of social work.
- V. "Special foster home." A licensed foster home capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or have been adjudicated a delinquent (A.R.S. § 8-501(10)).

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6904. Licensing Requirements**

- A. Consultation. Individuals, association, institutions or corporations considering the establishment of a Child Placing Agency shall consult the Social Services Bureau of the department about such plans:
  1. Before a specific program is developed;
  2. Before filing a petition for corporation; and
  3. Before an application is filed.

- B.** Application. Individuals, associations, institutions or corporations shall make written application to the Department for a Child Placing Agency license.
- C.** Fingerprints
  - 1. All members of the Child Placing Agency staff having contact with the foster children must be fingerprinted, and the fingerprints submitted to the Department for a criminal records check.
  - 2. A license for a Child Placing Agency will not be issued, or will be revoked, if any staff member, having contact with foster children has ever been convicted of a sex offense, has been involved in child abuse, child neglect, selling narcotics, or contributing to the delinquency of a minor, or has a substantial criminal record.
- D.** Demonstration of need for services in the community. Evidence of need shall consist of:
  - 1. Communication from community leaders in the field of child welfare indicating a need for the services proposed by the applicant or
  - 2. Recent research data establishing a need for the services being proposed by the applicant.
- E.** Licensing study
  - 1. A study will be made as required by A.R.S. § 8-505(C) by an authorized representative of the Department to evaluate the potential and actual ability of the Child Placing Agency to provide services to children according to the Standards prescribed in this Article.
  - 2. To obtain this information, the authorized representative of the Department must make at least one visit to evaluate the agency setting and interview the Director and staff.
  - 3. In addition, the authorized representative of the Department shall review documentary evidence provided by the Executive Director of the Child Placing Agency regarding agency operation and services to be provided.
- F.** Provisional license
  - 1. A provisional license shall be issued to any Child Placing Agency that is temporarily unable to conform to all licensing standards, and where the deficiencies are minor, correctable and not potentially injurious to the safety or welfare of the children served, and where the agency agrees to correct the deficiencies, and where there is a demonstrated need for the services.
  - 2. A provisional license is valid for up to six months and may not be renewed.
  - 3. Prior to the expiration of the provisional license, a review of Standards will be conducted by the Department to determine eligibility for regular licensing. The Child Placing Agency must meet all licensing standards for the issuance of a regular license.
- G.** Regular license
  - 1. The license is valid for one year from the date of issuance and must be renewed annually.
  - 2. Each license shall state in general terms the kind of child welfare services the licensee is authorized to undertake; and the number of children that can be received or placed and supervised in foster homes, their ages and sex, and the geographical area the agency is equipped to serve (A.R.S. § 8-505(D)).
- H.** Supervision by the Department. The Department shall provide training, consultation and technical assistance to Child Placing Agencies.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6905. Denial, Suspension, or Revocation of a License**

- A.** The Department shall deny, suspend or revoke any license when:
  - 1. The Child Placing Agency is not in compliance with the licensing standards of the Department, Arizona state or federal statutes, city or county ordinances or codes; or
  - 2. The care and/or services needed by children are not provided.
- B.** A license that has been suspended can be reinstated by the correction of the deficiency.
- C.** When a license is revoked, it is necessary to correct the deficiency and make a new application.
- D.** When an initial application, or an application for a renewal of a license is denied, or a license is revoked or suspended, a written notification of the action shall be forwarded by certified mail to the applicant or licensee.
  - 1. The written notice shall state the reasons for the denial, revocation or suspension with references to applicable statutes, regulations and standards.
  - 2. The Department shall notify the Child Placing Agency of the right to request a hearing within 20 days after receipt of the written notice.
  - 3. The hearing shall be held within ten days of the request, and at that time the applicant or holder shall have the right to present testimony and confront witnesses.
  - 4. When a hearing is requested, the denial, suspension or revocation of the license shall not become final until after the hearing decision is published.
  - 5. The fair hearing process shall be in accordance with A.A.C. Title 6, Chapter 5, Article 24.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6906. License Renewal Requirements**

- A.** Every regular license shall expire one year from the date of issuance and may be renewed annually upon application of the Child Placing Agency.
  - 1. License renewal is not automatic.
  - 2. License renewal requires:
    - a. A consultation;
    - b. An application;
    - c. A written description of services provided; and
    - d. Licensing study (see R6-5-6904(E)).
  - 3. For license renewal, each Child Placing Agency must meet all standards for licensing as specified in this Article.
- B.** An application for the renewal for a Child Placing Agency shall be made in the same manner as the original application. A licensee shall reapply when:
  - 1. The present license will expire within 30 days to 60 days; or
  - 2. There is a plan to move within 30 days from the address on the current license; or
  - 3. There is substantial material change in the program and/or purpose of the Child Placing Agency.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6907. Standards for Licensing and Operating a Child Placing Agency**

- A.** Requirements for the staff of a Child Placing Agency
  - 1. Executive Director. The Agency Board shall select an Executive Director.
    - a. If the Executive Director is not directly involved in supervising child placing activities, the Director shall at least have a Bachelor's degree in a field

- related to social work such as administration, psychology, education or other allied profession, as well as demonstrated satisfactory experience in the area of service provided by the agency.
- b. If the Executive Director directly supervises child placing activities, he shall have a Master's degree in Social Work or at least a Bachelor's degree and a minimum of three years of experience in child welfare services in a certified or licensed family or child welfare agency.
2. Casework supervisor. The casework supervisor shall possess above average ability in casework practice and have knowledge of and skills applicable to casework supervision. The supervisor shall have a Bachelor's degree and at least three years of casework experience in a licensed family or child welfare agency.
  3. Social worker. A person shall have a Master of Social Work degree from an accredited school of social work.
  4. Caseworker. A caseworker shall have a Bachelor's degree from a university or college and have training and/or experience in the field of behavioral science.
  5. Office staff. The agency shall have sufficient clerical services to keep correspondence, records, bookkeeping, and files current and in good order.
  6. Consultants
    - a. The agency shall have a consulting Licensed Medical Practitioner who makes recommendations as to the medical aspects of the agency program, coordinates medical care for selected children, and advises staff regarding the health problems of specific children.
    - b. Psychiatric, psychological and legal consultation and/or services shall be available to the agency.
- B. Requirements for the organization of a Child Placing Agency**
1. Type of organization. A Child Placing Agency shall be maintained by the state, or a political subdivision thereof, a person, firm, corporation, association, or organization.
  2. Incorporation
    - a. Incorporated Child Placing Agencies shall provide the Department with a copy of the Articles of Incorporation and Bylaws and the Certificate of Incorporation issued by the Arizona Corporation Commission.
    - b. The purpose for which the agency is incorporated shall be stated in its Articles of Incorporation and the agency shall not enter any other fields of service than those provided in its Articles of Incorporation.
  3. Board of Directors
    - a. All Child Placing agencies shall have a Board of Directors. The Department shall be provided a current list of all Board members, their address and office held.
    - b. Persons employed by or who receive compensation from a group care agency (see Title 6, Chapter 5, Article 74) may not be Board members of a Child Placing Agency due to a possible conflict of interest.
    - c. The Board of Directors shall:
      - i. Assume responsibility, jointly with the Executive Director, for formulating the plans and policies of the Child Placing Agency.
      - ii. Keep sufficiently informed through Board meetings and through the reports of its Executive Director and committees to ensure that the agency fulfills all of its functions in the best interest of the children.
  - iii. Meet at least quarterly. Its executive committee shall meet as needed.
  - iv. Keep minutes of each meeting which shall be made a permanent part of the records of the Child Placing Agency.
  - v. Refrain from direct administration or operation of the Child Placing Agency, either through individual members or committees, except in emergencies.
  - vi. Select and employ an Executive Director to whom the responsibility for administration of the agency shall be delegated and, when necessary, terminate such employment.
  - vii. Require and approve the Child Placing Agency's annual program and financial reports.
- d. The Board of Directors should be composed of adult residents who have a genuine interest in child welfare, concern for social conditions in the community, and reflect equitably the ethnic and economic standing of the population served. The Board members should have sufficient time to discharge their obligations and have a variety of interests, talents and points of view so that no single group or profession will have a controlling voice.
  - e. The names, addresses and offices held of all members of the Board of Directors shall be currently filed with the Department. All changes in composition of the Board of Directors or Officers of the Child Placing Agency must be reported to the Department in writing within 30 days of a change.
  - f. Provision should be made for replacement of members who become inactive for six months. Terms for Board members shall be overlapping and election of one-third of the Board membership annually is recommended to ensure continuity of policy, as well as the introduction of new and changing points of view. Administrators and staff of the Child Placing Agencies shall not be members of the Board of Directors. Agencies which do not have overlapping terms or which currently have administrators or staff members on their Board of Directors will have one year from the date of issuance of these standards to bring their Board of Directors into compliance.
4. Financing
    - a. Requirement for sufficient funding. The agency must furnish evidence that it has sufficient funds to pay all start-up and operating costs through the year of operation for which a license may be issued.
    - b. Budget and financial records
      - i. Child Placing Agency shall operate on a budget which has been approved by its governing board before the beginning of the fiscal year.
      - ii. A Child Placing Agency must maintain financial records of all receipts, disbursements, assets, and liabilities for at least three years. These records should be available for inspection by the Department upon request.
  - c. Solicitation of funds from the public. Each Child Placing Agency shall comply with all local and state laws relating to the solicitation of funds.
5. Operations manual. Each agency shall compile an operations manual. It shall be available to all agency staff members, and all staff members shall be familiar with the contents. It shall contain:
    - a. The overall philosophy, which guides the agency's services.

## Department of Economic Security – Social Services

- b. A statement of the primary purpose, services, and goals of the agency.
  - c. A chart of organizational structure.
  - d. The agency's intake policies and procedures.
  - e. The manual of the agency's governing board.
  - f. The operational procedures, which guide the delivery of the agency's services.
  - g. Copies of the agency's forms.
6. Records and reports
- a. Files. Case records and financial records shall be kept in a locked, fire-resistant file. Access to records shall be limited to the staff who have need for the data, and to authorized representatives of the Department.
  - b. Case records
    - i. The agency shall maintain up-to-date, confidential and well-organized case records. Each child's record should indicate, from the point of admission to discharge, the service plan and the progress of the child.
    - ii. Records shall include the current information needed to provide services, make service plans, and evaluate each child.
    - iii. The case record should be divided into sections for easy reference, with the material filed under the following headings, as appropriate:
      - (1) Intake -- intake study, including referral material from other agencies, court, or referral sources;
      - (2) Legal -- specific verified information relative to the status of the child's legal guardianship and custody. Statements, agreements, and consents signed by parent(s) or guardian(s) pertaining to the child's placement, financial responsibility, and other data required for protection of the child;
      - (3) Medical -- medical history, including immunizations, physical defects, significant developmental history, illnesses, and hospital care and/or operations. Medical releases and/or authorizations for treatment or medical care, including the names of medical personnel involved. Records of all prescription medications consumed;
      - (4) Dental -- date of examinations, etc.;
      - (5) Psychological -- reports of psychological and/or psychiatric evaluations and examinations;
      - (6) Progress -- periodic (not less than every three months) evaluation of the child's progress, adjustment, development and future plans and goals.
      - (7) School -- school records indicating attendance and scholastic achievement;
      - (8) Correspondence -- letters received or sent concerning the child;
      - (9) Each record shall have a face sheet listing the following information which shall be kept up-to-date:
        - (a) Full name of child, including aliases;
        - (b) Date and place of birth (verified);
        - (c) Sex;
        - (d) Religion and race;
        - (e) Names, addresses of parents and siblings;
  - (f) Names, addresses and relationships of other responsible persons;
  - (g) Date referred to the agency;
  - (h) Date service was terminated;
  - (i) Other pertinent identifying information.
- c. Reports
- i. Each agency shall maintain and report accurate statistics on children receiving services, and staff employed, on forms provided for that purpose by the Department. These reports shall include:
    - (1) Form FC-005, "Foster Child Placement, Replacement and Discharge Central Registry Form," which must be submitted within five working days of the date action is taken.
    - (2) Form LC-008, "Child Welfare Agency Employee Central Registry," which must be submitted within five days of employment or discharge.
  - ii. The Child Placing Agency shall report to the Department any planned change of address, change in program, or other change which significantly affects the services provided. The Department shall be notified 30 days prior to any planned changes.
- C. Requirements for the personnel of a Child Placing Agency
- 1. Personnel practices. An agency shall employ an individual only after careful evaluation of the applicant which will include references as to character, skills, knowledge, and experience.
  - 2. Personnel policies. The agency shall maintain a manual of all personnel policies and procedures including job descriptions and all personnel forms. The written statement of personnel policies outlining personnel practices as they affect both employer and employee should include:
    - a. The conditions of employment and the conditions under which employment may be terminated.
    - b. Salary scales.
    - c. Provision for sick leave, time off, and paid vacation.
    - d. Information regarding employment benefits, such as retirement and insurance plans.
    - e. Provision for periodic assessment of work performance.
    - f. Provision for staff development through in-service training.
  - 3. Personnel records
    - a. A personnel record shall be maintained for each employee. This shall include identifying and qualifying information; such as, references, previous work history and education, date of employment and evaluation.
    - b. When employees resign, retire, or are discharged, the date and reason for termination shall be recorded.
- D. Placement services
- 1. Foster care
    - a. Types of homes
      - i. Boarding Home. A Boarding Home provides temporary or permanent care and compensation to the foster parents for room and board. These Boarding Homes may be either Regular or Special Foster Homes.

- ii. Free home. A free home provides temporary or permanent care without compensation other than special needs.
- iii. Work and Wage Home
  - (1) Work and Wage Homes are those in which the child's duties within the home constitute reimbursement for room and board and for which the child may be paid an additional wage. These homes shall be used only as a resource for mature and well adjusted children from 16 to 18 years with good work skills. The Child Placing Agency shall prepare a written statement to be signed by the agency, foster parents and child which will clearly define:
    - (a) The amount of work required; and
    - (b) The remuneration the child is to receive and by whom; and
    - (c) The work schedule which shall permit the child time for school attendance, study, recreation, and other normal activities for a child in this age group.
  - (2) The Department shall not place adjudicated dependent children in Work and Wage Homes.
- b. Foster care placement procedures
  - i. The agency shall follow the preplacement procedures set forth in A.R.S. § 8-511.
  - ii. Following the preplacement procedures outlined in A.R.S. § 8-511, if it is determined that the child should be placed in foster care, the agency shall provide appropriate counseling services to the child and his parents to prepare them for the placement.
    - (1) If the family does not explain the reason for placement and prepare the child for this experience, the representative of the Child Placing Agency should do so.
    - (2) The representative of the Child Placing Agency should explain the foster home program to the parents.
  - iii. When a child is placed in foster care, the Child Placing Agency shall comply with the requirements and procedures set forth in A.R.S. § 8-514(B) and (C).
- 2. Adoption. If authorized in its license to place children for adoption, the agency shall comply with all laws (including but not limited to A.R.S. Title 8, Chapter 1, Article 1) regarding the investigation of potential adoptive parent and the adoption of children. The agency shall comply with the requirements of the following rules of the Department:
  - a. Title 6, Chapter 5, Article 65, Adoption Placement;
  - b. Title 6, Chapter 5, Article 66, Adoption Study;
  - c. Title 6, Chapter 5, Article 67, Adoption Subsidy; and
  - d. Title 6, Chapter 6, Article 68, Relinquishment and Severance Services.
- 3. Parents
  - a. When there are social and/or emotional problems regarding the pregnancy, social services shall be given in accordance with the needs of mother during pregnancy and to help her with plans for her rehabilitation after delivery.
  - b. Unless inappropriate, the father shall be involved in planning for the mother and child.
  - c. Services to unmarried parents may also include establishing paternity and shall include making suitable plans for the child.
- E. Supervision
  - 1. The licensed Child Placing Agency shall supervise:
    - a. All children placed by the agency in foster homes; and
    - b. All foster homes where children are placed by the agency.
  - 2. The licensed Child Placing Agency's representative shall:
    - a. Visit Receiving Foster Homes at least once per month;
    - b. Visit Regular and Special Foster Homes at least once every three months; and
    - c. Prepare written reports of the visits.
  - 3. A Child Placing Agency may allow a child to participate in activities and functions generally accepted as usual or normal for his/her age group. Permission for a child to participate in activities shall be given in accordance with A.R.S. § 8-513.
  - 4. Following the initial placement, the child placed in a setting other than that of his parent's home shall have medical examinations at periodic intervals, and not less than once every year.
- F. Foster home studies
  - 1. The study. Child Placing Agencies that wish to submit foster homes for licensing shall conduct an investigation of the foster home, meeting the standards established by the Department in Title 6, Chapter 5, Article 58, Family Foster Home Licensing Standards.
  - 2. Fingerprints. Foster parent applicants and members of the household, 18 years of age or older, must be fingerprinted, and the fingerprints submitted to the Department for a criminal records check.
  - 3. Demonstration of health
    - a. The potential foster care application, prior to licensing, shall furnish a report of a physical examination, done within the last six months, demonstrating that the person has good health and is free from any communicable disease.
    - b. Prior to licensing, children of the foster care applicant shall have current immunizations as prescribed by the Arizona Department of Health Services.
  - 4. Sanitation inspection. The Child Placing Agency shall request the local or state health department to conduct a sanitation inspection of the prospective foster home prior to licensing.
  - 5. Licensing. If the foster home meets all requirements set by the Department, the Child Placing Agency shall submit an application stating the foster home's qualifications to the Department. The Child Placing Agency may also recommend the types of licensing and certification to be granted to the foster home. The Department shall review the foster home study, and issue a license for the foster home if all licensing standards have been met.
  - 6. License renewal. Foster home license renewal is required annually by the Department.
  - 7. Homes exempt from licensing by the Department. When a child is placed in a home by a means other than by a court order, and when the home receives no compensation from the state or any political subdivision of the state, licensing by the Department is not required.
- G. Requirements of physical plant and equipment
  - 1. Offices



- a. There should be sufficient office space for interviewing children and families and for supervisory conferences.
- b. The Child Placing Agency shall comply with any building, health, fire or other codes in effect in the jurisdiction where it is located.
2. Fire protection. All Child Placing Agencies shall have a written fire evacuation plan posted and should conduct fire drills at least every six months.
3. Telephone. There shall be telephone service in the Child Placing Agency.
4. Vehicle(s). The vehicle(s) for transporting children shall be in a safe operating condition and all drivers shall have a current driver's license. Persons who frequently transport children as a part of their employment shall have a chauffeur's license.
5. Insurance
  - a. The Child Placing Agency shall provide for insurance coverage for adequate protection against accidents.
  - b. Insurance coverage must include liability insurance to cover acts of children or staff, and protection against damages to, or loss of, buildings and other valuable properties.
  - c. There shall be liability insurance on all vehicles transporting children.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6908. Confidentiality**

The rules and regulations of the Department for securing and using confidential information concerning the client shall be followed. Refer to Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information."

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6909. Civil Rights**

The rules of the Department regarding civil rights shall be followed. Refer to Title 6, Chapter 5, Article 26, Civil Rights.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**R6-5-6910. Fair Labor Standards Act**

The hiring and compensation policies of the Child Placing Agency shall comply with the Fair Labor Standards Act.

**Historical Note**

Adopted effective August 31, 1978 (Supp. 78-4).

**ARTICLE 70. ADOPTION AGENCY LICENSING****R6-5-7001. Definitions**

The definitions in R6-5-6501 apply in this Article.

**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7002. Who Shall Be Licensed**

- A. Only the following persons may perform the adoption services listed in subsection (B):
  1. A person licensed as an agency;
  2. An employee of or an independent contractor for an agency;
  3. A person acting under the direct supervision and control of an adoption agency; or
  4. A person or entity holding a statutory exemption from licensing pursuant to A.R.S. § 8-131, when such person is acting in the capacity described in such statutes.
- B. Only persons listed in subsection (A) may perform the following adoption services:
  1. Recruiting a birth parent to place a child through a particular agency;
  2. Taking a birth parent's relinquishment and consent to adoption;
  3. Taking physical custody of a child for placement into an adoptive home;
  4. Placing a child in an adoptive home;
  5. Monitoring, supervising, or finalizing an adoptive placement; and
  6. Providing networking or matching services for a birth parent, an adoptive parent or an adoptive child.
- C. Notwithstanding subsections (A) and (B), attorneys licensed to practice law in the state of Arizona may participate in direct placement adoptions to the extent allowed by A.R.S. Title 8, Chapter 1, Article 1.

**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7003. Licensing: Initial Application; Fee**

- A. To apply for an adoption agency license, a person shall:
  1. File a completed license application form with the Department; the form shall contain the information listed in subsection (B);
  2. Submit the supporting documentation listed in subsection (C);
  3. Pay a non-refundable, initial application fee of \$400; and
  4. Obtain and provide to the Department evidence that all agency employees or personnel having direct contact with children have been fingerprinted.
- B. The application form shall contain the following information:
  1. Agency name, address, and telephone number;
  2. Address of all agency offices;
  3. A written description of:
    - a. All adoption services the applicant intends to provide,
    - b. The fee the applicant will charge for each service,
    - c. The cost to the applicant of providing each service,
    - d. The time in the adoption process when the applicant will require clients to pay the fee described in subsection (B)(3)(b),
    - e. The anticipated number of clients the applicant will serve, and

- f. The methods the applicant will use to recruit birth parents and prospective adoptive parents; and
- 4. A written explanation of how the applicant will provide adoption services, including:
  - a. Number and description of staff who will provide the service, and
  - b. Staff training requirements.
- C. The applicant shall submit the following supporting documentation:
  - 1. A current financial statement;
  - 2. Applicable business organization documents, including:
    - a. Articles of incorporation,
    - b. By-laws,
    - c. Partnership agreement,
    - d. Annual reports for the preceding three years, and
    - e. Financial audits for the preceding two years;
  - 3. Copies of all documents, forms, and notices which the applicant will use with or provide to clients, including:
    - a. Agency application for services,
    - b. Adoptive parent certification application,
    - c. Fee policy and schedule as prescribed by R-5-7031(B),
    - d. Sample birth parent relinquishment and consent form,
    - e. Informational or advertising brochures,
    - f. Sample fee agreement,
    - g. Sample birth parent agreement letter,
    - h. Intake form,
    - i. Sample case file,
    - j. Court report format, and
    - k. Statistical report;
  - 4. Copies of the applicant's internal policies and operations manual;
  - 5. A written plan showing how the applicant will pay start-up costs and its costs of operation during the first year; and
  - 6. A list of the members of the agency's governing body required by R6-5-7011, including name, address, position in the agency, and term of membership.
- D. An agency which does not have or maintain all or part of the supporting documentation listed in subsection (C) shall so indicate in a written statement filed with the application.

#### Historical Note

Adopted as an emergency effective January 21, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed and amended effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7004. Licensing: Out-of-state Agencies

- A. An out-of-state agency that wishes to become licensed in Arizona as an adoption agency shall comply with all requirements of R6-5-7003.
- B. In addition to the documentation required by R6-5-7003, the out-of-state agency applicant shall file the following documents with the Department:
  - 1. A copy of each license or authorization to perform adoption services the applicant holds in states other than Arizona or in a foreign country;

- 2. A consent allowing any out-of-state or foreign licensing authority to release information on the applicant to the Department; and
- 3. A written description of any license suspension or revocation proceedings pending or filed, or brought against:
  - a. The applicant;
  - b. The applicant's owner, if the applicant is acting as an individual or a sole proprietor;
  - c. The partners of the applicant, if the applicant is a partnership; and
  - d. The directors, officers, and shareholders holding more than a 10% ownership interest in the applicant if the applicant is a corporation.

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed and amended effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7005. Department Procedures for Processing License Applications

- A. In this Section, a complete application package means:
  - 1. For an initial license, the items listed in R6-5-7003; and
  - 2. For a renewal license, the items listed in R6-5-7008.
- B. Within 14 days of receiving an initial or renewal license application package, the Department shall notify the applicant that the package is either complete or incomplete, as required by A.R.S. § 41-1074(A). If the package is incomplete, the notice shall specify what information is missing, as required by A.R.S. § 41-1074(B).
- C. An applicant with an incomplete package shall supply the missing information within 60 days from the date of the notice. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to become licensed shall reapply.
- D. Upon receipt of all missing information within 60 days, as specified in subsection (B), the Department shall notify the applicant that the application package is complete.
- E. The Department shall not process an application for licensing, as described in R6-5-7006(A), until the applicant has fully complied with the requirements of R6-5-7003 or R6-5-7008, as applicable.
- F. The Department shall issue a licensing decision no later than 90 days after receipt of a completed application package. The date of receipt is the postmark date of the notice advising the applicant that the package is complete.
- G. For the purpose of A.R.S. § 41-1073, the Department establishes the following licensing time-frames for both initial and renewal licenses:
  - 1. Administrative completeness review time-frame: 15 days;
  - 2. Substantive review time-frame: 90 days; and
  - 3. Overall time-frame: 105 days.

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an

emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 1006, effective March 18, 1999 (Supp. 99-1).

#### **R6-5-7006. License: Issuance; Denial**

- A.** Prior to issuing a license to an applicant, the Department shall:
  1. Review the application package;
  2. Inspect the applicant's place of business, books of record, books of accounting, and system for client files;
  3. Interview the applicant's staff, as necessary to familiarize the Department representative with the applicant's operations; and
  4. As to out-of-state agency applicants, verify that the applicant is licensed out-of-state and investigate any complaints asserted against the applicant in other states.
- B.** Prior to issuing a license, the Department may submit the applicant's written fiscal plan for audit verification.
- C.** The Department may issue a license to an applicant who:
  1. Has complied with all application and inspection requirements; and
  2. Demonstrates that it:
    - a. Has sufficient capital to pay all start-up costs; and
    - b. Has sufficient capital, personnel, expertise, facilities, and equipment to provide the services it plans to offer;
    - c. Does not intend to charge unreasonable fees; and
    - d. Complies with the requirements of this Article and Article 66.
- D.** The Department may deny a license to:
  1. An applicant which had a license revoked by another state or foreign country,
  2. An applicant which employs personnel whose fingerprint background check shows that the employee has been convicted of or is awaiting trial on an offense listed in A.R.S. § 46-141,
  3. An applicant which does not comply with one or more of the standards listed in subsection (C),
  4. An applicant which has intentionally or recklessly jeopardized the well-being of a client,
  5. An applicant which has a history or pattern of violations of applicable adoption statutes or rules, or
  6. An applicant which violates the ICPC or ICWA during a licensing year.
- E.** When the Department denies a license, the Department shall send the applicant written notice explaining the reason for denial and the applicant's right to seek a fair hearing.

#### **Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7007. License: Term; Nontransferability**

- A.** The Department shall issue a license only to the agency for which application is made and for the location shown on the application.

- B.** A license expires one year from the date of issuance.
- C.** A license shall not be transferred or assigned and shall expire upon a change in agency ownership.
- D.** For the purpose of this Section, a change in ownership shall include the following events:
  1. Sale or transfer of the agency,
  2. Bulk sale or transfer of the agency's assets or liabilities,
  3. Placement of the agency in the control of a court appointed receiver or trustee,
  4. Bankruptcy of the agency,
  5. Change in the composition of the partners or joint venturers of an agency organized as a partnership,
  6. Sale or transfer of a controlling interest in the stock of a corporate agency, or
  7. Loss of an agency's nonprofit status.

#### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7008. Application for License Renewal; Fee**

- A.** No earlier than 90 and no later than 45 days prior to the expiration date of a license, an agency may apply to the Department for license renewal.
- B.** The renewal application shall be on a Department form containing the information listed in R6-5-7003(B), except that the agency shall obtain additional fingerprint clearance on continuing personnel every third year following original clearance.
- C.** An agency shall submit copies of the supporting documents listed in R6-5-7003(C) if the agency has changed, amended, or updated such documents since the agency last renewed its license.
- D.** With a renewal application, the agency shall also submit a renewal fee of \$225 and the following documentation:
  1. A current financial statement;
  2. A copy of the agency's current budget required by R6-5-7022, and most recent audit report required by R6-5-7023;
  3. Copies of any written complaints the agency has received about its performance during the expiring license year; and
  4. A written description of any changes in program services or locations, or the population served by the agency.

#### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7009. Renewal License: Issuance**

- A.** The Department shall process a renewal application package pursuant to the procedures described in R6-5-7005 and R6-5-7006.
- B.** In addition to conducting an investigation as prescribed in R6-5-7006(A) and (B), the Department may:
  1. Interview agency clients and references,
  2. Observe agency staffings, and
  3. Conduct field visits to agency branch offices.
- C.** In determining whether to renew a license, the Department may consider the licensee's past history from other licensing

periods, and shall consider a repetitive pattern of violations of applicable adoption statutes or rules as evidence that the agency is unable to meet the standards for obtaining a license.

- D.** The Department may renew an agency's license when the agency:
1. Demonstrates that it meets the standards described in this Article,
  2. Has complied with the requirements of this Article and Article 66 during the expiring period of licensure, and
  3. Has corrected any prior circumstances which resulted in non-compliance status.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7010. Amended License

- A.** An agency which seeks to change its name, address, or offices, without a change in ownership, shall apply to the Department for an amended license at least 14 days prior to the effective date of the change.
- B.** The application shall be in writing and shall specify the information to be changed.
- C.** So long as the change does not cause the agency to fall out of compliance with the standards listed in this Article and Article 66, the Department shall issue an amended license which shall expire at the end of the agency's current licensing year.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Amended and adopted as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7011. Governing Body

- A.** The adoption agency shall have a governing body, which shall:
1. Establish the agency's policies and oversee the implementation of those policies;
  2. Ensure that the agency has the capital, physical facilities, staff, and equipment to effectively implement the agency's policies and adoption program;
  3. Ensure that the agency complies with:
    - a. All legal agreements to which the agency is a party; and
    - b. All relevant federal, state, and local laws;
  4. Review and approve the agency's annual budget required by R6-5-7022 and the annual audit required by R6-5-7023; and
  5. Notify the Department before making any substantial changes to the adoptions program set out in the agency's operations manual.
- B.** The agency shall advise the Department in writing of any changes in composition of the governing body within 30 days of the change.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7012. Agency Administrator

- A.** The agency shall have an administrator who is responsible for the agency's business operations.
- B.** The Administrator shall have the education and experience described in this subsection.
1. A bachelor's degree from an accredited college or university and two years of professional experience in the human services field, one year of which shall have been in a supervisory or administrative position; or
  2. A master's or doctorate degree from an accredited graduate school in business or public administration or in one of the areas of study in the human services field, and one year of professional experience in the human services field.
  3. Five years of experience as the administrator of an adoption agency may substitute for only the degree that is required in subsections (B)(1) or (B)(2).
- C.** The Administrator shall:
1. Oversee development and implementation of the agency's policy and procedures for program and fiscal operations;
  2. Ensure that the agency achieves and maintains compliance with the requirements of this Article;
  3. Oversee hiring, evaluation, and discharge of agency personnel in accordance with the agency's established personnel policies and this Article;
  4. Establish and supervise working relationships with other social service agencies within the community.
- D.** An Administrator who directly supervises adoption activities shall also meet the requirements for a social services director prescribed in R6-5-7013.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7013. Social Services Director

- A.** The agency shall have a social services director who is responsible for the agency's casework and family services.
- B.** The social services director shall have the following education and experience:
1. A bachelor's degree in social work or a related human services field from an accredited college or university and three years of professional experience in services to children and families, two years of which shall be in adoption services; or
  2. A master's degree in social work or a related human services field from an accredited college or university and a minimum of two years of professional experience in services to children and families.
- C.** The social services director shall, either personally or through a designee:
1. Supervise, manage, train, and evaluate all social work staff members and consultants;
  2. Approve decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in a child's legal status; and
  3. Implement the agency's adoption program and services.
- D.** If the social services director delegates responsibility as prescribed in subsection (C), the social services director shall personally supervise the designee and shall oversee the performance of the duties described in subsection (C).

- E. If the social services director performs the duties of an administrator, the director shall also meet the requirements for an administrator prescribed in R6-5-7012.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7014. Social Workers**

- A. The agency shall have social workers sufficient to meet the ratio requirements prescribed in R6-5-7020.
- B. A social worker shall have the following qualifications:
1. A bachelor's degree in social work or a related human services field from an accredited college or university and two years of professional experience in a human services field; or
  2. A master's degree in social work or in a related human services field from an accredited college or university.
- C. A social worker shall:
1. Maintain up-to-date case records on cases assigned to the worker;
  2. Prepare certification and placement reports and home studies for adoptive applicants and parents, and such other reports as the court may require;
  3. Provide preplacement, placement, post-placement, or post-adoption services to clients.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7015. Agency Employees: Hiring; References; Fingerprinting**

- A. An agency shall obtain an application for employment or a resume from each employee. The application or resume shall contain, at a minimum, the following information on the applicant:
1. Name and current address and telephone number;
  2. Educational history;
  3. Degrees or certifications held;
  4. Work history for five years prior to the date of the application, and the reasons for leaving each prior job;
  5. A summary of all prior experience the applicant has had in the area for which the applicant is seeking employment;
  6. A minimum of three professional references;
  7. A minimum of three personal references; and
  8. A list of any criminal convictions, excluding minor traffic violations.
- B. An agency shall not hire an applicant for employment until:
1. The agency has personally contacted at least two of the applicant's professional references and one of the applicant's personal references;
  2. The agency has verified that the applicant has the skills and training necessary to perform the task for which the agency is hiring the applicant; and
  3. The applicant has submitted to a fingerprint and criminal records check as required by A.R.S. § 46-141.
- C. The agency shall not knowingly hire or retain any staff member who is awaiting trial on, or has been charged with, been

convicted of, pled guilty to, or entered into a plea agreement regarding an offense listed in A.R.S. § 46-141.

- D. The agency shall have written job descriptions for all employee and volunteer positions in the agency. The job descriptions shall include the essential functions of the job and any minimum qualifications or training required for the position.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7016. Agency Volunteers; Interns**

An agency which uses volunteers or student interns shall follow the requirements of this Section.

1. An appropriate employee shall directly supervise each volunteer or intern. As used in this subsection, the term "appropriate" shall mean agency personnel with skills and training to guide the volunteer or intern in the performance of the designated tasks.
2. The agency shall subject each volunteer or intern who renders direct services to clients, to the same fingerprinting and reference checks the agency performs on agency employees.
3. For each volunteer or intern, the agency shall maintain a record of fingerprint clearance, reference check information, and any training provided. The agency shall retain the record for three years following the volunteer or intern's termination with the agency.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7017. Personnel Records**

- A. The agency shall maintain a personnel file for each agency employee. The file shall contain:
1. The employee's resume or written application for employment;
  2. Documentation of the reference checks required by R6-5-7015(B);
  3. Evidence of fingerprint and criminal records clearance;
  4. A record of the expiration date and number of the employee's driver's or chauffeur's license, if the employee transports clients;
  5. Copies of the employee's professional credentials or certifications, if relevant to the employee's job functions;
  6. Documentation of initial and ongoing training the employee has received;
  7. Periodic job performance evaluations; and
  8. Dates of employment and separation, and reasons for separation.
- B. The agency shall maintain employee personnel records for at least three years following the employee's separation from the agency.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987

(Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7018. Training Requirements**

- A.** An agency shall provide initial and ongoing training for professional employees.
1. Initial training shall include orientation to the agency and any of the agency's policies and procedures that are relevant to the employee's job.
  2. Ongoing training shall include a minimum of 14 hours of annual training in the following, or related, subject areas:
    - a. Adoption statutes and rules,
    - b. Agency policies and procedures,
    - c. Confidentiality, and
    - d. The specific subject matter of employee's job.
- B.** The agency shall document all training in the employee's personnel file.
- C.** As used in this Section, "professional employee" shall mean any person who renders services directly to clients.

##### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7019. Contracted Services**

- A.** When an agency provides adoption services through persons who are not agency employees, volunteers, or interns, the agency shall retain only external professionals or consultants who are certified, licensed, or otherwise meet the qualifications described in Articles 66 and 70, to provide such services.
- B.** The agency shall not require clients to use medical, legal, psychological, psychiatric, or other professionals or consultants used or recommended by the agency. The agency may use consultants or persons selected by the agency's client, so long as the consultant designated by the client has the education, experience, or certification required to render the service.

##### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7020. Staffing Ratios**

- A.** An agency shall have sufficient staff to satisfy:
1. All statutory requirements for provision of adoption services;
  2. All applicable requirements of this Article and Article 66; and
  3. All requirements included in the agency's own operating and procedural manuals, policies, or guidance documents.
- B.** To determine sufficiency under subsection (A), the Department shall consider:
1. Complaints made against the agency;
  2. The complexity of the individual needs of the clients served by the agency;
  3. The professional training and experience of the agency's staff;
  4. The specific functions assigned to individual agency staff;
  5. The geographic area served by the agency and any travel time required for agency staff;

6. The respective amounts of time staff devote to various functions and responsibilities, including provision of services, court appearances, case documentation, professional training and development, and administrative tasks; and
  7. Other similar factors bearing on caseload distribution.
- C.** Notwithstanding any other provision of this Article, a case manager whose caseload is predominantly a caseload of children with special needs shall not have a caseload in excess of 20 children.

##### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7021. Operations Manual**

- A.** An agency shall have a written operations manual which shall include:
1. A statement of the agency's purpose, philosophy, and program;
  2. A list of any eligibility requirements for clients;
  3. A description of services provided to clients and the name of any person or entity providing the service, if different from the agency and its employees;
  4. An organizational chart explaining the agency's lines of authority;
  5. Intake policies and procedures;
  6. The operational procedures the agency follows for delivery of services;
  7. Confidentiality policies and procedures;
  8. Staff training policy;
  9. Policy for use of volunteers;
  10. Policy on student and intern placement;
  11. Policy and procedures to be followed in the event of adoptive placement disruption; and
  12. Policy for recruitment and selection of adoptive families.
- B.** The agency shall make the operations manual available to all agency personnel and shall ensure that personnel are familiar with and trained in those policies and procedures relevant to their job functions.
- C.** The agency shall make the operations manual available for review by clients, upon request.

##### **Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### **R6-5-7022. Agency Operations Budget; Financial Records**

- A.** Before the start of the agency's fiscal year, the Governing Body shall adopt a budget which shall reflect sufficient funds to pay the costs of the agency's program and shall be based on the audit report prepared in compliance with R6-5-7023.
- B.** The agency shall operate within the budget adopted by the Governing Body.
- C.** The agency shall maintain financial records of receipts, disbursements, assets, and liabilities. The agency shall maintain its financial records in accordance with generally accepted accounting principles; the records shall accurately reflect the agency's financial position.

- D.** The agency shall maintain records showing the following information:
1. Each adoptive parent's original contract date with the agency,
  2. Fees that each adoptive parent has paid to the agency and the date of such payments, and
  3. Fees that the agency has charged to the adoptive parent.
- E.** The agency shall make all records described in this Section available for inspection by the Department at periodic inspections, or at other reasonable times upon Department request.
- F.** The agency shall retain financial records for five years, except for records involved in an audit, which records the agency shall retain for five years following completion of the audit.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.F.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7023. Annual Financial Audit**

- A.** An agency shall obtain an annual, fiscal year-end, financial audit by an independent certified public accountant. The accountant shall conduct the audit in accordance with generally accepted auditing standards.
- B.** The agency shall obtain from the auditor a written audit report which shall include the following financial information:
1. Income statement,
  2. Balance sheet,
  3. Statement of cash flows,
  4. Statement of monies or other benefits the agency has paid or transferred to other business entities or individuals affiliated with the agency, and
  5. A record of any financial transactions between the agency and any other agency.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.P.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7024. Insurance Coverage**

An agency shall provide evidence that it maintains a blanket liability insurance policy for protection against financial loss, accidents, errors, and omissions in the minimum amount of \$100,000 per person; \$300,000 per accident.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7025. Protecting Confidentiality of Adoption Records**

The agency shall have and follow a written policy for the maintenance and security of adoption records. The policy shall be consistent with A.R.S. §§ 8-120, 8-121, and 36-2903.01(S) and shall specify:

1. The personnel responsible for supervision and maintenance of records,
2. The persons who shall and may have access to the records,

3. The procedures for release of records.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.P.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7026. Recordkeeping Requirements: Adoptive Children**

The agency shall maintain a case record for each adoptive child. Except as otherwise provided in A.R.S. § 8-129(A), the record shall be divided into two sections as follows:

1. Non-identifying information as required by A.R.S. § 8-129; and
2. Identifying information which shall include:
  - a. Tapes, videos, or photos of the adoptive child or birth parent;
  - b. Legal documents and reports required for adoption;
  - c. Social, physical, mental, and educational history of the child's birth family;
  - d. Social, physical, mental, and educational history of the adoptive child; and
  - e. A summary of all action taken to prepare the child for placement in the adoptive home.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7027. Recordkeeping Requirements: Adoptive Parents**

The agency shall maintain a case record for each adoptive parent. If the adoptive parent is a member of the same family as another adoptive parent, the agency can maintain one file for the adoptive family. The file shall include:

1. Documentation showing that the adoptive parent received the orientation described in R6-5-6603,
2. The adoptive parent's application for certification,
3. The parent's certification report and any recertification reports,
4. A copy or description of the nonidentifying information the agency has provided to the adoptive parent pursuant to A.R.S. § 8-129(A), and
5. A summary of the adoptive placement decision and the preplacement and post-placement contacts with the family and the adoptive child.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Amended and adopted as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7028. Reporting Requirements: Abuse; Unauthorized Practice; Changes; Registry Information**

**A.** During the period of time that an agency is providing services to an adoptive child or family, the agency shall:

1. Immediately report any suspected or alleged incident of maltreatment of an adoptive child to Child Protective Services; and

2. Immediately notify a Department licensing representative if an adoptive child dies or suffers a serious illness, bodily injury, or psychiatric episode.
- B.** An agency shall notify the Department orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Department within five working days:
  1. Permanent or temporary closure of the agency or any part thereof;
  2. A criminal conviction or plea agreement involving any agency staff member, excluding minor traffic violations;
  3. Filing of a lawsuit against the agency;
  4. Filing of a lawsuit against agency personnel when the lawsuit relates to or is likely to adversely affect the provision of adoption services;
  5. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; and
  6. Knowledge of any child placement which the agency reasonably believes is not permitted by law.
- C.** The agency shall notify the Department in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:
  1. Any plans to reorganize the adoption program that would involve changes in target population, geographic area, services, or eligibility, and the reasons for the changes;
  2. Any change in the identity of the agency administrator or social director; or
  3. Any change in ownership as described in R6-5-7007(D).
- D.** When there is a change in the adoptive circumstances of a child or family listed on the Registry, the agency shall notify the Department of the change within five work days of receipt of information about the changed circumstances. For the purpose of this subsection, a change in adoptive circumstances shall include the following events:
  1. Placement of a child,
  2. Loss or renewal of certification, and
  3. Disruption or failure of a placement.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7029. Birth Parent: Service Agreement; Prohibitions

- A.** Before providing services to a birth parent, an agency shall enter into a signed written agreement with the birth parent. The agreement shall:
  1. Describe all services the agency will provide to the birth parent;
  2. Explain, with an itemized statement of costs, any expense which the agency will require the birth parent to reimburse to the agency, and the circumstances giving rise to reimbursement;
  3. Contain an itemized statement describing the nature, purpose, and amount of any payments the birth parent will receive from the adoptive parent; if the actual amount is not known, the agency shall describe how the amount will be calculated; and
  4. Contain an itemized statement of all consideration the birth parent will receive in connection with the birth or adoption of a child, if not already described pursuant to subsection (A)(3).

- B.** Before or at the time of entering into a birth parent agreement with a birth mother, the adoption entity shall advise the birth mother of her obligations under A.R.S. § 8-106(F).
- C.** Before providing services to a birth parent, the adoption agency shall advise the birth parent of the Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in R6-5-7034.

#### Historical Note

Adopted as an emergency effective October 17, 1996, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7030. Adoption Fees; Reasonableness

- A.** An agency shall not charge clients more than a reasonable fee for services.
- B.** An agency shall establish, maintain, and follow a written policy on the fees it charges clients for adoption services. The fee policy shall include all of the agency's practices and procedures regarding fees, including the following:
  1. A schedule of fees the agency charges for each specific service the agency offers, and the time in the adoption process when the client is required to pay the fee, broken down, at a minimum, as follows:
    - a. Preregistration and registration fees,
    - b. Application and orientation fees,
    - c. Certification application fee,
    - d. Certification investigation,
    - e. Certification report,
    - f. Certification renewal fees,
    - g. Placement services,
    - h. Placement investigation and report,
    - i. Foreign adoption services,
    - j. Post-placement services, and
    - k. Fees incurred when a child has special needs;
  2. An explanation of any practice the agency may have for assessing fees based on pooled or averaged costs;
  3. An explanation of the circumstances or conditions which would cause the agency to reduce, waive, suspend, or refund a fee, which circumstances may include:
    - a. Adjustment made for the well-being of an adoptive child, and
    - b. Adjustments made to accommodate an adoptive parent's limited ability to pay;
  4. An explanation of the circumstances which would cause the agency to increase its fees; and
  5. The procedures the agency follows to collect its fees.
- C.** An agency shall advise prospective and existing clients of its fee policy and shall make a copy of the policy available to clients upon request.
- D.** An agency shall not:
  1. Condition a client's eligibility for, or receipt of, adoption services on the client's donation or agreement to donate money, goods, services, or other things of value, other than the regular scheduled adoption fees, to the agency or to an agency affiliate;
  2. Obstruct or withhold finalization of a placement or adoption solely for nonpayment of fees;
  3. Charge a client for any fee which the agency has not listed in the fee schedule, included in its fee policy, and disclosed to the client in the client's fee agreement letter; or



4. Charge a prospective adoptive parent advance fees contrary to R6-5-6603(C).
- E. The Department may audit, or designate a certified public accountant to audit, an agency's fee structure.
- F. The agency shall provide the Department and the agency's current adult clients with a copy of any changes made to the agency's fee policy, no less than 14 days prior to the effective date of the change.
- G. An agency shall refund to a client any fees the client paid for services the agency failed to perform. Against any such refund, the agency may offset any amount due from the client for services the agency has performed and for which the client agreed to pay but has not paid.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7031. Adoption Fee Agreement**

- A. Before providing services to an adoptive parent, the agency shall enter into a written fee agreement with the adoptive parent. Both the adoptive parent and an authorized representative of the agency shall sign and date the agreement. The agency shall retain the original agreement in the adoptive parent's file and provide a copy to the adoptive parent.
- B. The fee agreement shall include the following terms:
  1. A description of all services the agency will provide to the adoptive parent and the fee for each service; the agreement shall specify how much of the fee is being allocated to cover medical expenses, including the cost of prenatal care and delivery;
  2. A general description of any adoption services the agency is not providing but which are required to finalize the adoption, with an estimate of the costs of such services;
  3. The terms of payment, including payment due dates and amounts;
  4. A statement advising the client of the client's right to receive a copy of the agency's fee policy.
- C. An agency shall not charge a fee, other than a certification application fee, or enter into an adoption fee agreement until after the potential client has received the orientation described in R6-5-6603.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7032. AHCCCS Reimbursement; Disclosure of Third-party Coverage**

- A. This Section applies to placements made pursuant to the ICPC.
- B. When an agency has collected fees to cover the medical expenses of a birth mother or an adoptive child whose medical expenses were paid by AHCCCSA, the agency shall reimburse AHCCCSA for the monies AHCCCSA has expended on behalf of the birth mother or child for prenatal care and delivery of the child. The reimbursement amount shall not exceed the amount AHCCCSA has paid for capitation, reinsurance and fee-for-service costs.
- C. An agency shall determine whether an adoptive parent has insurance that will cover the medical expenses of a birth

mother or adoptive child whose medical expenses were paid for by AHCCCSA. If insurance is available, the agency shall provide AHCCCSA with information about the adoptive parent's insurance.

- D. The Department shall provide AHCCCSA with a copy of the verified accounting form required by A.R.S. § 8-114.01 and A.A.C. R6-5-6503.01.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit**

- A. The Department shall monitor the ongoing operations of each agency.
- B. Monitoring activities may include the following:
  1. At least one announced and one unannounced onsite inspection of each agency during the licensing year;
  2. Interviews of agency personnel and clients;
  3. A review of the agency's books, records, and sample client files; and
  4. A compliance audit of the agency, as described in subsection (C).
- C. Upon receipt of a complaint against an agency, or in response to observed deficiencies, the Department may conduct a compliance audit of the agency to assess the agency's compliance with applicable adoption licensing and adoption services statutes and rules.
- D. An agency shall facilitate the Department's monitoring functions or compliance audit by:
  1. Making the agency's books, files, records, manuals, premises, and facilities available to Department staff for inspection;
  2. Allowing Department staff to interview agency personnel and employees; and
  3. Enabling the Department to conduct interviews with agency clients.

**Historical Note**

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

**R6-5-7034. Complaints; Investigations**

- A. Any person may register a complaint about an adoption agency with the Department. The Department shall ask persons making oral complaints to put the complaint in writing.
- B. Upon receipt of a complaint, or in response to deficiencies observed by Department staff, the Department shall investigate the allegations of the complaint.
- C. The Department's investigation may include:
  1. Interviews with the complaining party, agency staff members, and agency clients;
  2. Inspections of agency records, files, or other documents related to the issues raised in the complaint; and
  3. Any other activities necessary to substantiate or refute the allegations.
- D. Upon completion of its investigation, the Department shall:
  1. Find that the complaint is unsubstantiated and close the investigation;

2. Find that the complaint is substantiated and take appropriate disciplinary action against the agency, as described in this Article; or
  3. Find that the complaint cannot be substantiated or refuted based on the available evidence.
- E.** The Department shall maintain a file on all complaints against an agency and shall make information on substantiated complaints available to the general public, upon request, and to the extent permitted by confidentiality laws.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7035. Noncompliance Status

- A.** The Department shall place an agency in noncompliance status when a Department representative observes or the Department receives and substantiates a complaint in an area which does not endanger the health, safety, or well-being of a client.
- B.** The Department shall mail the agency written notice of the noncompliance status and the reason for that status and recommendations for changes the agency can make to cure the identified problem.
- C.** No later than 10 working days following the postmark date of the noncompliance notice, the agency shall provide the Department with a written plan showing how the agency will correct the problem which resulted in the noncompliance status, with an estimated time-frame in which the agency shall implement the corrective action. The Department may extend the 10-day time-frame when the agency has demonstrated a good faith effort to address and resolve the identified problem.
- D.** Imposition of noncompliance status is not an adverse action and is not appealable.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7036. Suspension

- A.** The Department may suspend an agency's license for violations of the statutes or rules governing adoptions, or for any activity which may threaten the health, safety, or welfare of any agency client, including the following:
1. When the Department receives a CPS report of abuse or neglect alleged to have been committed by agency staff against a child, and the agency fails to take protective measures pending an investigative finding;
  2. Conduct that causes disruption of a placement or adoption;
  3. When an agency permits an employee who has failed to comply with fingerprinting requirements or who has been denied fingerprint clearance to continue providing services to children;
  4. When an agency refuses to cooperate with Department requests for information which the Department requires for determining compliance with the statutes and rules governing provision of adoption services;
  5. When an agency refuses to provide the Department with information the Department has requested during the course of a complaint investigation; or

6. When an agency fails to correct a problem which resulted in imposition of noncompliance status, within the time provided in the agency's corrective action plan.
- B.** The Department shall mail the agency written notice of the suspension, the reason for the suspension, and an explanation of the agency's right to appeal the suspension.
- C.** Except as otherwise provided in subsection (D), an agency may continue to place adoptable children who become available for placement and to finalize adoptions of placed children and adoptees during a period of suspension; the agency shall not recruit, accept, or register any new birth parents or adoptive parents.
- D.** When the Department finds that the physical or emotional health or safety of a client is in imminent danger, the Department may take immediate action to eliminate the danger. For the purpose of this subsection,
1. A situation involving imminent danger shall be those situations identified in A.R.S. § 8-223(C)(2) which would justify removal of a child;
  2. Immediate action may include:
    - a. Removal of children,
    - b. Transfer of clients to another agency, or
    - c. Other protective action designed to eliminate the danger or risk of harm.
- E.** If the agency does not correct the situation which led to suspension of its license, the Department shall initiate license revocation proceedings against the agency.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7037. Revocation

- A.** The Department may revoke a license for any of the following reasons:
1. When the agency violates a statute or rule governing provision of adoption services;
  2. When the agency commits any activity which may threaten the health, safety, or welfare of any agency client, including, but not limited to the circumstances justifying license suspension, as prescribed in R6-5-7036;
  3. When the agency commits fraud or intentional misrepresentation in obtaining or renewing its license;
  4. When the agency commits fraud or intentional misrepresentation in dealing with its clients;
  5. When the agency has obtained a birth parent's relinquishment and consent to adoption through duress, coercion, extortion, or intimidation;
  6. When the agency knowingly fails to advise an adoptive parent that the adoptive child has been abused while in the agency's care or control; or
  7. When the agency violates its agreement with a client for provision of services.
- B.** The Department shall mail the agency written notice of the revocation, the reason for the revocation, and an explanation of the agency's right to appeal the revocation.
- C.** A revocation is effective:
1. Twenty-one days after the postmark date of the revocation notice; or
  2. In cases where the agency appeals the revocation, when an administrative hearing officer issues a decision affirming the revocation. If an agency further appeals a hearing officer's decision affirming a decision to revoke the

agency's license, the revocation is effective until there is a higher administrative or judicial decision reversing or vacating the hearing officer's decision.

- D. An agency which has had its license revoked shall perform no adoption services after the effective date of the revocation and shall surrender its license to the Department.
- E. An agency which has had its license revoked shall cooperate with the Department to transfer all its clients to another agency.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.P.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7038. Adverse Action: Procedures

- A. When the Department takes adverse action against a license applicant or adoption agency, the Department shall give the affected party written notice of such adverse action by first-class or registered mail.
- B. For the purpose of this Section, the following are adverse actions:
  1. Denial of an initial or renewal license, and
  2. Suspension or revocation of a license.
- C. The adverse action notice shall specify:
  1. The action taken,
  2. All reasons supporting such action, and
  3. The procedures by which affected parties may contest the action taken.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R6-5-7039. Appeals

- A. An applicant or agency may appeal an adverse action other than imposition of noncompliance status, by filing a written notice of appeal with the Department's Adoptions Licensing Office no later than 20 days from the postmark date of the adverse action notice.
- B. The notice of appeal shall specify the action being appealed, the reasons for the appeal, and a brief summary of why the Department's action was erroneous, unlawful, or improper.
- C. The Department shall conduct an appeal from an adverse action as prescribed in 6 A.A.C. 5, Article 75.
- D. The Department shall conduct an appeal from the decision of a hearing officer as prescribed in A.R.S. §§ 41-1992(D) and 41-1993 and R6-5-7518 through R6-5-7520.

#### Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended effective June 4, 1998 (Supp. 98-2).

#### R6-5-7040. International Adoptions

- A. An agency shall not accept a foreign child for adoptive placement in the United States unless the government of the foreign child's country of origin authorized the placement.

- B. The agency shall provide the Department with evidence of its authority from or agreements with a foreign country or placing organization. If the evidence of authority is not written in English, the agency shall provide an English language translation of the documentation.
- C. The agency shall advise the adoptive parents of the need to have the child naturalized in the United States.
- D. The agency shall provide adoptive parents with information about the child's foreign culture of origin.

#### Historical Note

Adopted as an emergency effective October 17, 1996, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### ARTICLE 71. REPEALED

#### R6-5-7101. Repealed

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

#### R6-5-7102. Repealed

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

#### R6-5-7103. Repealed

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

#### R6-5-7104. Repealed

#### Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

#### ARTICLE 72. REPEALED

*Former Article 72 consisting of Sections R6-5-7201 through R6-5-7214 repealed effective July 12, 1984.*

#### ARTICLE 73. REPEALED & RENUMBERED

*Editor's Note: Article 73 was repealed except for Sections R6-5-7307 and R6-5-7308 which were both renumbered, effective July*

1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7301. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7302. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7303. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7304. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7305. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7306. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7307. Renumbered**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Section R6-5-7307 renumbered to R6-5-7470 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7308. Renumbered**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Section R6-5-7308 renumbered to R6-5-7471 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7309. Repealed**

**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1).  
Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS**

**R6-5-7401. Definitions**

In addition to the definitions contained in A.R.S. § 8-501, the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-531(1).
2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to § 8-821 and which is caused by the acts or omissions of an individual having care, [physical] custody and control of a child. Abuse includes:
  - (a) Inflicting or allowing sexual abuse pursuant to § 13-1404, sexual conduct with a minor pursuant to § 13-1405, sexual assault pursuant to § 13-1406, molestation of a child pursuant to § 13-1410, commercial sexual exploitation of a minor pursuant to § 13-3552, sexual exploitation of a minor pursuant to § 13-3553, incest pursuant to § 13-3608 or child prostitution pursuant to § 13-3212.
  - (b) Physical injury to a child that results from abuse as described in § 13-3623, subsection C. A.R.S. § 8-201(2).
3. "Accredited" means the approval and recognition of an institution of learning as maintaining those standards requisite for its graduates to gain admission to other institutions of higher learning or to achieve credentials for professional practice. An example of an accrediting body is the North Central Association of Colleges and Universities.
4. "Administrative completeness review time frame" means the number of days from [the Licensing Authority's] receipt of an application for a license until [the Licensing Authority] determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application. A.R.S. § 41-1072(1).
5. "Adverse action" means suspension or revocation of a license, denial of a renewal license, or making a material change in licensing status.
6. "After-care" means services provided to a child after the child is discharged from a licensee's care and may also include services for the child's family.
7. "Applicant" means a person who submits a written application to the Licensing Authority to become licensed or to renew a license to operate a child welfare agency or a residential group care facility.
8. "Barracks" means a building that:
  - a. Is designed and constructed or remodeled for the specific purpose of housing large numbers of children of the same gender;
  - b. Has wide, open sleeping areas for children, under one roof;
  - c. Is identified and described as a barracks or dormitory in the agency's promotional and organizational materials; and
  - d. Is made known as a barracks or dormitory to placing agencies and persons considering placement of a child.
9. "Behavior management" means the policies, procedures, and techniques a licensee uses to control conduct as prescribed in R6-5-7456.

10. “Child placing agency” means a person or entity that is licensed or authorized to receive children for care, maintenance, or placement in a foster home, because:
  - a. The Department has licensed the person or entity as a child welfare agency pursuant to A.R.S. § 8-505; or
  - b. It is an entity with statutory authorization to place children.
11. “Child welfare agency” or “agency”
  - a. Means:
    - i. Any agency or institution maintained by a person, firm, corporation, association, or organization to receive children for care and maintenance or for 24-hour social, emotional, or educational supervised care or who have been adjudicated as a delinquent or dependent child.
    - ii. Any institution that provides care for unmarried mothers and their children.
    - iii. Any agency maintained by the state, or a political subdivision thereof, person, firm, corporation, association, or organization to place children or unmarried mothers in a foster home.
  - b. Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions that are licensed by the department of health services pursuant to Title 36, Chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities and that do not use restrictive behavior management techniques. A.R.S. § 8-501(A)(1).
12. “Corrective action” means a specific course of conduct an agency will follow to remedy violations of the licensing requirements prescribed in this Article, within a specified period of time.
13. “Corrective action plan” means a written document describing an agency’s corrective action, as prescribed in R6-5-7418.
14. “CPS” means Child Protective Services, a Department program responsible for investigating reports of child maltreatment.
15. “CPSCR” means the Child Protective Services Central Registry, a computerized database, which CPS maintains according to A.R.S. § 8-804.
16. “De-escalation” means a method of verbal communication or non-verbal signals and actions, or a combination of signals and actions, that interrupt a child’s behavior crisis and calm the child.
17. “Department” or “DES” means the Department of Economic Security.
18. “Developmentally appropriate” means an action that takes into account:
  - a. A child’s age and family background;
  - b. The predictable changes that occur in a child’s physical, emotional, social, cultural, and cognitive development; and
  - c. A child’s individual pattern and timing of growth, personality, and learning style.
19. “DHS” means the Department of Health Services.
20. “Direct care staff” means the facility staff who provide primary personal care, guidance, and supervision to children in care.
21. “Discharge plan” means:
  - a. A written description of:
    - i. A program of action to prepare a child for release from a facility; and
    - ii. After-care;
  - b. That is developed by a licensee in cooperation with a child’s service team.
22. “Discipline” means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to accepted levels of social behavior.
23. “Document” means to make and retain a permanent written or electronic record of a fact, event, circumstance, observation, contact, or communication.
24. “Exploitation” means the act of taking advantage of, or to make use of a child selfishly, unethically, or unjustly, for one’s own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.
25. “Facility” or “residential group care facility” means a living environment operated by a child welfare agency, where children are in the care of adults unrelated to the children, 24 hours per day.
  - a. “Facility” does not include a program licensed as a behavioral health service agency by the Department of Health Services under A.R.S. § 36-405 and 9 A.A.C. 20.
  - b. “Facility” does include an outdoor experience program.
  - c. When used in reference to an outdoor experience program, “facility” means the campsite at which or the mobile equipment in which children are housed.
26. “File” means a place where information is stored through written, electronic, or computerized means.
27. “Foot candles” means a unit of luminous intensity that can be measured with a light meter.
28. “Governing body” means an individual or group of individuals responsible for the policies, activities, and operations of a facility, as prescribed in R6-5-7424.
29. “Individual education plan” or “IEP” means a written document that describes educational goals for a particular child and the services the child needs to attain those goals.
30. “Institution” as used in A.R.S. § 8-501(A)(1) means an entity meeting two or more of the following criteria:
  - a. Solicits charitable contributions;
  - b. Is organized as a profit or non-profit corporation with a board of directors and officers;
  - c. Publishes and distributes information or promotional materials about its program or operations;
  - d. Requires residents to formally apply for residency through use of application forms or other similar paperwork;
  - e. Operates a structured program of care pursuant to written policies, procedures, guidelines, or rules; or
  - f. Advertises itself or holds itself out in the community as an institution that provides care or social services.
31. “Institution for Unwed Mothers and Children” means a child welfare agency, as described in A.R.S. § 8-501(A)(1)(a)(ii), that is licensed to care for unmarried mothers who are under age 18 at the time of admission to the agency and the children of those mothers.
32. “License” means a document issued by the Licensing Authority to an individual or non-governmental business, which authorizes the individual or business to operate a child welfare agency in compliance with this Article.

33. "Licensee" means the person or entity holding a license. When used in reference to a duty, task, or obligation, the term "licensee" includes the staff who work at an agency or facility and who are responsible for doing the acts necessary to fulfill the requirements of this Article.
34. "Licensed medical practitioner" means a person who holds a current license as a physician, surgeon, nurse practitioner, or physician's assistant pursuant to A.R.S. §§ 32-1401 et seq., Medicine and Surgery; A.R.S. §§ 32-1800 et seq., Osteopathic Physicians and Surgeons; A.R.S. §§ 32-2501 et seq., Physician Assistants; and A.R.S. §§ 32-1601 et seq., Nursing and R4-19-501(A)(1), Registered Nurse Practitioner, respectively.
35. "Licensing Authority" means the Department administrative unit that monitors and makes licensing determinations for agencies and facilities, including issuance, denial, suspension, and revocation of a license or operating certificate, and imposition of corrective action.
36. "Licensing representative" means a person employed by the Licensing Authority to investigate and monitor applicants and licensees.
37. "Licensing year" means a one-year time period that begins on the date an agency obtains its initial license to operate, and ends one year later.
38. "Living unit" means a specific grouping of children who are assigned to and share a distinct and common physical space within a facility.
39. "Maltreatment" means abuse, neglect, abandonment, or exploitation, of a child.
40. "Material change in licensing status" means, for the purpose of A.R.S. § 8-506.01,
  - a. Any of the following actions:
    - i. Denial, suspension, or revocation of an operating certificate;
    - ii. At any time following issuance of an initial license, imposition of provisional license status, in lieu of a regular license as prescribed in R6-5-7419; or
    - iii. A change in a term appearing on the face of a license or operating certificate, including: a.) Geographic area served; b.) Age, number, or gender of children served; or c.) Type of services offered;
  - b. But does not include the act of placing an agency on a corrective action plan to bring the agency into compliance with licensing requirements as prescribed in R6-5-7418.
41. "Mechanical restraint" means:
  - a. An article, device, or garment that:
    - i. Restricts a child's freedom of movement or a portion of a child's body;
    - ii. Cannot be removed by the child; and
    - iii. Is used for the purpose of limiting the child's mobility;
  - b. But does not include an orthopedic, surgical, or medical device that allows a child to heal from a medical condition or to participate in a treatment program.
42. "Medication" means an agent, such as a drug or remedy, used to prevent or treat disease, illness or injury, including both prescribed and over-the-counter agents.
43. "Mobile dwelling" means a structure, such as a trailer or recreational vehicle as defined in A.R.S. § 41-2142(30). Mobile dwelling does not mean a mobile, manufactured, prefabricated, or modular home as defined in A.R.S. § 41-2142(14), (24), or (26).
44. "Neglect" has the same meaning as A.R.S. § 8-201(21).
45. "Non-ambulatory child" means a child who cannot walk due to a physical disability or impairment, rather than as a result of the child's normal age and developmental level.
46. "Onsite" means located on the physical property operated by the licensee for the purpose of the licensee's residential program and includes the contiguous area within:
  - a. A single structure;
  - b. A cluster of structures;
  - c. A complex containing single or multiple family dwelling units with or without separate entrances for each unit;
  - d. A campus containing any combination of the residences listed in subsections (a)-(c), as approved by the Licensing Authority.
47. "Operating certificate" means a document that the Licensing Authority issues to a particular facility that is run by an agency holding a license, as prescribed in R6-5-7409.
48. "Outdoor experience program" means a child welfare agency that is located in a cabin or portable structure such as a tent or covered wagon and primarily uses the outdoors to provide recreational and educational experiences in group living, either in a fixed campsite or in a program with an unfixed site, such as a wagon train or wilderness hike.
49. "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to § 8-821, subsection A or B, voluntary placement pursuant to 8-806 or placement due to dependency actions. A.R.S. § 8-501(A)(7).
50. "Overall time frame" means the number of days after receipt of an application for a license during which [the licensing authority] determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame. A.R.S. § 41-1072(2).
51. Paid staff means:
  - a. A licensee's paid employees who work at a facility;
  - b. Any temporary worker or independent contractor the licensee uses as a temporary replacement for an employee who is sick, on leave, or unavailable; and
  - c. Any independent contractor that the licensee retains to provide children in care with direct services at the facility.
52. "Parent or parents" means the natural or adoptive mother or father of a child. A.R.S. § 8-501(A)(8).
53. "Person" means an individual, partnership, joint stock company, business trust, voluntary association, corporation, or other form of business enterprise, including non-profit or governmental organizations.
54. "Personally identifiable information" means any information which, when considered alone, or in combination with other information, identifies, or permits another person to readily identify the person who is the subject of the information, and includes:
  - a. Name, address, and telephone number;
  - b. Date of birth;
  - c. Photograph;
  - d. Fingerprints;
  - e. Physical description;
  - f. School;
  - g. Place of employment; and
  - h. Unique identifying number, including:
    - i. Social Security number;

- ii. Driver's license number;
  - iii. License number; and
  - iv. Court case number.
55. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement, but does not include holding a child firmly enough to prevent the child from harming himself or herself, or others, but gently enough so that the child is not harmed by being held.
  56. "Placing agency or person" means the child placing agency, parent, or guardian, having legal custody of a child and who makes the decision to send the child to reside at a particular agency.
  57. "Potentially hazardous food" means a food that is:
    - a. Natural or synthetic and capable of rapid and progressive growth of infectious or toxigenic microorganisms or the growth and production of *Clostridium botulinum*;
    - b. Of animal origin and is raw or has been heated;
    - c. Of plant origin and is heated or consists of raw seed sprouts;
    - d. A cut melon; or
    - e. A garlic and oil mixture.
  58. "Program director" means a person who meets the qualifications listed in R6-5-7432(B).
  59. "*Relative*" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle, or first cousin. A.R.S. § 8-501(A)(12).
  60. "Residential environment" means a facility building or any portion of a facility building that is used for living, sleeping, counseling, dining, or academic purposes.
  61. "Restrictive behavior management" means a form of behavior control that is subject to limitations as prescribed in R6-5-7456(D)-(F).
  62. "Safeguard" means to use reasonable and developmentally appropriate measures to minimize the risk of harm to a child in care and to ensure that a child in care will not be harmed by a particular object, substance, or activity. Where a specific method is not otherwise prescribed in this Article, safeguarding may include:
    - a. Locking up a particular substance or item;
    - b. Putting a substance or item beyond the reach of a child who is not mobile;
    - c. Erecting a barrier that prevents a child from reaching a particular place, item, or substance;
    - d. Mandating the use of protective safety devices;
    - e. Providing staff supervision; or
    - f. Providing a young adult with safety information and generalized instruction necessary to promote the safe and appropriate use of potentially dangerous objects.
  63. "Seclusion" means placing a child alone in a room with closed, locked doors that cannot be opened from the inside as prohibited by R6-5-7456(C)(6).
  64. "Service plan," which is sometimes described as a "case plan," means a goal-oriented, time-limited individualized program of action that:
    - a. Describes the plans for treating and providing services to a child and the child's family, and
    - b. Is developed by a licensee in cooperation with a child's service team.
  65. "Service team" means the group of persons listed in R6-5-7441(D)(1) who participate in development and review of a child's service plan and discharge plan.
  66. "Shelter care facility" means an agency facility that receives children for temporary out-of-home care, 24 hours per day, when children request care, or are placed in care by a placing agency, a law enforcement agency, a parent, a guardian, or a court.
  67. "Significant person" means a person who is important or influential in a child's life and may include a family member or close friend.
  68. "Sleeping area" means a single bedroom, or a cluster of two or more bedrooms, located in an adjacent area of a dwelling.
  69. "Social worker" means a person with a bachelor's, master's, or doctoral degree in a field of organized work called social work, which is intended to advance the social conditions of a community through provision of counseling, guidance, and assistance, especially in the form of social services to individuals.
  70. "Staff" means a licensee's paid staff and unpaid staff.
  71. "*Substantive review time frame*" means the number of days after the completion of the administrative completeness review time frame during which [the licensing authority] determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame. A.R.S. § 41-1072(3).
  72. "Swimming pool" means any on-grounds, natural or man-made body of water that is used for the purposes of swimming, recreation, or physical therapy, and includes spas and hot tubs.
  73. "Threat" means an expression of intent to hurt, destroy, or take action prohibited by this Article or the licensee's policies, but does not include an expression of intent to impose a planned consequence for misbehavior if the consequence is not prohibited by this Article or the licensee's policies.
  74. "Transitional program" means services provided to a child who is being emancipated as an adult, or a person who has reached the age of 18 and is considered an adult as a matter of law, in order to assist the child or person in becoming independent.
  75. "Unpaid staff" means a licensee's volunteers, students, and interns who work, train, or assist at a facility.
  76. "Unusual incident" means one or more of the events listed in R6-5-7434(C), (D), (E), or (G).
  77. "Work day" means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Arizona state holidays.
  78. "Young adult" means an individual, age 16 to 21, who has been assessed and determined to be appropriate for preparation for adult self-sufficiency. The assessment or determination shall be made by:
    - a. The placing agency, if the young adult is in the care, custody, and control of the state of Arizona;
    - b. A parent or legal guardian of the young adult, if subsection (a) does not apply;
    - c. The licensee, if subsections (a) and (b) do not apply.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7401 repealed; new Section R6-5-7401 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2). Amended by emergency rulemaking at 12 A.A.R. 2233, effective June 1, 2006 for 180 days (Supp. 06-2). Emergency renewed at 12 A.A.R. 4732, effective November 28, 2006 for 180 days (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 2049, effective May 21, 2007 (Supp. 07-2).

**R6-5-7402. Request for Initial Application - New Applicant**

- A.** A person who wants to operate a residential group care facility shall initiate the licensing process by contacting the Licensing Authority to request an application for a child welfare agency license.
- B.** Upon request, the Licensing Authority shall send the prospective applicant an application package containing:
1. A cover letter outlining the licensing process and requesting a responsive letter of intent,
  2. An application form,
  3. A statement of requirements for licensure, and
  4. A form the applicant can use to obtain city or county zoning clearance.

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7402 repealed; new Section R6-5-7402 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

**R6-5-7403. Letter of Intent - New Applicant**

- A.** The prospective applicant shall prepare a responsive letter of intent to proceed with licensure, and return it to the Licensing Authority. The letter of intent shall include the following information:
1. The applicant's name, address, and telephone and telefacsimile numbers;
  2. The name of the applicant's chief executive officer or administrator, with a description of that person's qualifications to operate the agency;
  3. A description of community or statewide need for the service or program the applicant intends to provide;
  4. A plan for financing the proposed agency during the first year of operation;
  5. A statement that the applicant has conferred with the school district where the facility will be located to advise the district of any special needs that children likely to be in care at the facility may have; and
  6. A description of the proposed agency's program and services, which shall address the following areas, if applicable:
    - a. Any organization from which the applicant will seek accreditation;
    - b. The form of on-campus educational programs the applicant will offer;
    - c. The characteristics of the children the applicant plans to serve;
    - d. The applicant's primary source of referrals;
    - e. The frequency and method by which the applicant will provide or offer psychiatric, psychological, or counseling services;
    - f. Whether the applicant will employ behavioral health practitioners, or contract for behavioral health services; and
    - g. A general description of the number and qualifications of the applicant's professional staff.
- B.** Within 10 work days of receiving a letter of intent, a licensing representative shall contact the applicant.
1. If the Licensing Authority determines that an applicant may require licensure as a behavioral health service agency under A.R.S. § 36-405 and 9 A.A.C. 20, the Licensing Authority shall refer the applicant to the Department of Health Services for evaluation. In determining whether to refer an applicant to DHS, the Licensing Authority shall consider the factors set forth on Appendix 1.

2. For all other applicants, the representative shall schedule an appointment for a licensing consultation. The appointment shall occur within 45 calendar days of the date the Licensing Authority receives the letter of intent, unless the applicant requests a later consultation.
3. If DHS declines to license an applicant as a behavioral health service agency, and refers an applicant to the Department for licensure as a child welfare agency, the applicant shall contact the Licensing Authority to request a licensing consultation. The Licensing Authority shall schedule the consultation within 45 calendar days of the date of the request, unless the applicant requests a later consultation.

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Amended subsection (O), paragraph (1) effective January 21, 1985 (Supp. 85-1). Former Section R6-5-7403 repealed; new Section R6-5-7403 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

**R6-5-7404. The Licensing Consultation; Time for Completion of Application**

- A.** At the licensing consultation, a licensing representative shall review the licensing application form with the applicant. The licensing representative shall explain the requirements for licensure and shall advise the applicant about:
1. The information and documentation the applicant must provide to complete the application or licensing process, as set forth in R6-5-7405;
  2. The fingerprinting and background checks required by A.R.S. § 46-141 and R6-5-7431;
  3. The need for a DHS health and safety inspection of the agency and each facility, and the process for scheduling the inspection;
  4. The need to obtain a fire inspection and zoning clearance for the each facility;
  5. The need to confer with the local school district to discuss any special educational needs that the children to be served may present;
  6. The timelines for submission of application information; and
  7. The need for the Licensing Authority to conduct a site inspection as prescribed in R6-5-7406.
- B.** No later than 60 days after the licensing consultation, the applicant shall provide the Licensing Authority with a complete application package, as prescribed in R6-5-7405(A).
- C.** If the applicant cannot provide the information within 60 days, the applicant shall contact the Licensing Authority to request an extension of time. The Licensing Authority shall allow an extension for a fixed period of time, which shall not exceed 120 days past the original 60 days.
- D.** If the applicant fails to provide the information within the time periods specified in subsections (B) and (C), the Licensing Authority shall close the applicant's file and send the applicant a written notice of closure. An applicant whose file has been closed shall reapply.
- E.** For an initial application, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) begins when the applicant submits the application form and the required documentation listed in R6-5-7405(A).

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7404 repealed; new Section R6-5-7404 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).



**R6-5-7405. Complete Application; Initial License - New Applicant**

**A.** A complete application package for an initial license of a new agency shall contain the information and supporting documentation listed in this subsection.

1. Identification and background information: agency, facility, administrators.
  - a. Name, address, and telephone and telefacsimile numbers for the agency and all facilities operated by the agency;
  - b. Name, title, business address, and telephone and telefacsimile numbers of:
    - i. The person who serves as the chief executive officer (CEO) as prescribed in R6-5-7432(A);
    - ii. The person who serves as the program director as prescribed in R6-5-7432(B);
    - iii. The person with delegated authority to act when the CEO is absent;
    - iv. The person in charge of each separate facility as prescribed in R6-5-7432(C);
    - v. Persons holding at least a 10% ownership interest in the applicant; and
    - vi. The agency and facility medical directors, if applicable;
  - c. The educational qualifications and work history for each person identified in subsection (A)(1)(b), with that person's attached resume, employment application, or curriculum vitae;
  - d. A list of the members of the agency's governing body described in R6-5-7424, including: name, address, position in the agency, term of membership, and any relationship to the applicant;
  - e. A list of licenses or certificates for provision of medical or social services, currently or previously held by the applicant or persons listed in subsection (A)(1)(b), including those held in this state or another state or country;
  - f. A written description of any proceedings for denial, suspension or revocation of a license or certificate for provision of medical, psychological, behavioral health, or social services, pending or filed, or brought against the applicant or a person listed in subsection (A)(1)(b), including those held in this state or another state or country; and
  - g. A written description of any litigation in which the applicant or a person listed in subsection (A)(1)(b) has been a party, including, without limitation, collection matters and bankruptcy proceedings during the 10 years preceding the date of application.
2. Business organization.
  - a. An organizational chart for the agency and each separate facility, showing administrative structure and staffing, and lines of authority;
  - b. Business organization documents appropriate to the applicant, including:
    - i. Articles of incorporation, by-laws, annual reports for the preceding three years; or
    - ii. Partnership or joint venture agreement;
  - c. For corporations, a certificate of good standing from the Arizona Corporation Commission or comparable entity from a foreign state; and
  - d. A statement as to whether the applicant is for-profit or not-for-profit if not explained in other documents already provided.
3. Staff.
  - a. A list of the applicant's paid staff, including:
    - i. Name;
    - ii. Position or title;
    - iii. Degrees, certificates, or licenses held;
    - iii. Business address;
    - iv. Date of hire;
    - v. Date of last physical; and
    - vi. Date of submission for fingerprinting and background clearance;
  - b. Evidence that staff have submitted fingerprints and criminal background information, as prescribed in A.R.S. § 46-141 and R6-5-7431 and obtained a physical exam as prescribed in R6-5-7431(F); and
  - c. For any staff whose primary residence is the facility,
    - i. The name and date of birth of any persons residing with the staff member;
    - ii. Evidence that any adult residing with the staff member has submitted fingerprints and criminal background information as prescribed in R6-5-7431 and is free from communicable diseases posing a danger to children in care, as prescribed in R6-5-7431(H); and
    - iii. Evidence that the staff member's children who reside at the facility have current immunizations.
4. Financial Stability.
  - a. A written, proposed operating budget for start up and the first year of operation;
  - b. Verifiable documentation of funds available to pay start-up costs; the funds shall be in the form of cash or written authorization for a line of credit;
  - c. Verifiable documentation of funds available to pay operating expenses for the first three months of operations; the funds shall be in the form of cash or written authorization for a line of credit;
  - d. Verifiable documentation of financial resources to operate in accordance with the proposed operating budget for the remaining nine months of the licensing year; the resources may include:
    - i. Cash;
    - ii. Contracts for placement;
    - iii. Donations;
    - iv. Grants; and
    - v. Authorization for a line of credit;
  - e. If the applicant or one of the persons listed in subsection (A)(1)(b) has operated any child welfare agency in this state or any other state during the past 10 years, the most recent financial statement and financial audit for that agency, unless the most recent statement or audit is more than 10 years old; and
  - f. A certificate of insurance, or letter of commitment from an insurer, showing that the applicant has insurance coverage as prescribed in R6-5-7426.
5. Program.
  - a. Informational or advertising material about the agency and its facility;
  - b. For each facility, a written description of:
    - i. All services the applicant intends to provide;
    - ii. The number and type of children the applicant will serve, including: age, gender, special needs, or particular behavior problems;
    - iii. The anticipated sources of placement and referral;
    - iv. Number and qualifications of paid staff who will provide services, including the staff-child

- ratio, per living unit, during a 24-hour day, for a seven-day week; and
- c. Program description, including:
    - i. Goals and objectives;
    - ii. Educational activities, with attached copy of Arizona Department of Education approval, if applicable;
    - iii. Recreational activities;
    - iv. Food and nutrition, with sample menus;
    - v. Behavior management practices;
    - vi. Religious practices, if any; and
    - vii. Medical services.
  6. Documentation, Forms, and Notices. Samples of all documents, forms, and notices which the applicant will use with or provide to children placed with the agency, the parents and guardians of those children, and the persons and entities who place children, including:
    - a. Agency application for services;
    - b. Agency placement agreement;
    - c. Intake form;
    - d. Child's case file and medical record;
    - e. Forms for reports to courts and placing agencies;
    - f. Statement of client rights;
    - g. Unusual incident reports; and
    - h. Sample medication logs.
  7. Policies and Procedures. The applicant's internal policies, procedures, and operations manual.
  8. Physical site and environment.
    - a. The floor plan for each facility;
    - b. A DHS health and safety inspection report for each facility;
    - c. Documentation showing that the local zoning authority verifies that each agency facility complies with all applicable zoning requirements;
    - d. Fire safety inspection report from the state fire marshal or a local fire department inspector for each facility;
    - e. Any water supply report as prescribed in R6-5-7458(D);
    - f. Gas equipment inspection report as prescribed in R6-5-7465(D)(1); and
    - g. Any other inspection certificates or reports prescribed in this Article, and any building occupancy certificates.
  9. Miscellaneous.
    - a. A statement authorizing the Department to investigate the applicant;
    - b. The signature, under penalty of perjury, of the agency administrator or person submitting the application, attesting to the truthfulness of the information contained in the application; and
    - c. The date of application.
  - B. If an applicant has attached a copy of a policy or procedure which describes the applicant's practice or procedure on a particular issue, the applicant need not separately describe the policy or procedure on the application form, but shall indicate that the description is contained in a particular identified and attached policy.
  - C. If the Licensing Authority needs additional information to determine the applicant's fitness to hold a license or an operating certificate, ability to perform the duties of a licensee as prescribed in this Article, or ability to fulfill the requirements prescribed in the applicant's policies, procedures, and program description, the Licensing Authority may require the applicant to provide additional information, including a signed form per-

mitting a specifically named person or entity to release information to the Licensing Authority.

- D. An agency which does not have or is unable to obtain all or part of the information or supporting documentation listed in subsection (A) shall so indicate in a written statement filed with the application. The written statement shall explain why the information or documentation is unavailable.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7405 repealed; new Section R6-5-7405 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

#### R6-5-7406. Site Inspection

- A. After receiving a complete application package, the Licensing Authority shall notify the applicant that the application is complete, and shall schedule the applicant for a site inspection, which may require more than one visit to a site.
- B. The site inspection shall begin no later than 45 days after the Licensing Authority receives the applicant's completed application package.
- C. During the site inspection, the licensing representative shall:
  1. Inspect the facility to ensure that any deficiencies identified in the DHS inspection report have been remedied;
  2. Verify that the facility meets the requirements of this Article;
  3. Review the applicant's policies and procedures;
  4. Review model client files;
  5. Review personnel files;
  6. Inspect the applicant's books, records, and proposed forms;
  7. Interview one or more of the applicant's governing board members, incorporators or organizers, and a representative sampling of staff who have been hired; and
  8. Inspect the applicant's computer security system and review the applicant's confidentiality safeguards.
- D. For an initial application, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is 75 days. Before expiration of the time-frame, the Licensing Authority shall send the applicant written notice of administrative completeness or deficiency as prescribed in A.R.S. § 41-1074(A).
- E. If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Licensing Authority may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7406 repealed; new Section R6-5-7406 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

#### R6-5-7407. Licensing Study

- A. The licensing representative shall summarize the results of the site visit, and other information gathered during the licensing process in a written licensing study, which shall be the basis for the licensing decision.
- B. The licensing study shall describe whether the applicant has:
  1. Complied with all application and inspection requirements; and
  2. Demonstrated that it has:
    - a. The capital to pay all start-up costs and the financial ability to meet one year's operating expenses, as prescribed in R6-5-7405(A)(4);

- b. The staff, expertise, facilities, and equipment to provide the services it plans to offer; and
  - c. The ability and intent to comply with the standards and requirements of this Article.
- C. The applicant may obtain a copy of the licensing study, upon request.

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7407 repealed; new Section R6-5-7407 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

**R6-5-7408. Licensing Decision: Issuance; Denial; Time-Frames**

- A. The Licensing Authority shall issue a written licensing decision within 30 days of concluding the applicant's final site visit. This 30 day period is the substantive review time-frame required by A.R.S. § 41-1072(3).
- B. The licensing decision shall explain whether the Licensing Authority will grant or deny a license, and the terms of the license.
- 1. If the Licensing Authority grants a license, the Licensing Authority shall send the license and any operating certificates with the notification letter.
  - 2. If the Licensing Authority issues a provisional license as prescribed in R6-5-7419 or denies a license, the Licensing Authority shall send the notice by certified mail. The notice shall contain the information listed in R6-5-7421(B) for a notice of adverse action.
- C. The overall time-frame for an initial license is 105 days.

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7408 repealed; new Section R6-5-7408 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

**R6-5-7409. Licenses and Operating Certificates: Form; Term; Nontransferability**

- A. If an agency's administrative office is located separately from an agency facility, the Licensing Authority shall issue a license to the agency and an operating certificate to each facility the agency operates. If the agency and facility occupy the same location, the Licensing Authority shall issue only a license, with the information required for an operating certificate.
- 1. A license shall:
    - a. Identify the agency name, and the geographic area in which the agency is licensed to operate;
    - b. List each facility the agency operates, and the total number of children the agency is authorized to serve; and
    - c. Require the agency to operate each facility in accordance with the operating certificate issued to the particular facility.
  - 2. An operating certificate shall:
    - a. Identify the agency operating the facility;
    - b. Identify the facility name, if different from the agency name, and the geographical area in which the facility is authorized to operate;
    - c. List the type of service or program to be offered at the facility; and
    - d. Specify the number, gender, and ages of children the facility may receive for care.
- B. An operating certificate is not valid unless it has been issued in the name of an agency holding a license. Except as otherwise prescribed in subsection (A) for an agency and facility at the

same location, a facility cannot operate without a current operating certificate.

- C. A license and an operating certificate expire one year from the date of issuance, except as otherwise provided in R6-5-7410 for satellite facilities and in R6-5-7419 for provisional licenses.
- D. An agency shall post its current license in the agency, in a conspicuous location, visible to the public. The agency shall post a facility's current operating certificate in a conspicuous location within the facility.
- E. A license and an operating certificate cannot be transferred or assigned, and shall expire upon a change in ownership. For the purpose of this Section, a "change in ownership" includes any of the following events:
- 1. Sale or transfer of the agency or facility;
  - 2. Bulk sale or transfer of the agency's or facility's assets or liabilities;
  - 3. Placement of the agency or facility in the control of a court appointed receiver or trustee;
  - 4. Bankruptcy of the agency or facility;
  - 5. Change in the composition of the partners or joint venturers of an agency or facility organized as a partnership;
  - 6. Sale or transfer of a controlling interest in the stock of a corporate agency or facility; or
  - 7. Loss of an agency's or facility's nonprofit status.

**Historical Note**

Adopted effective May 19, 1977 (Supp. 77-3). Amended effective May 25, 1979 (Supp. 79-3). Amended subsection (H) effective January 2, 1981 (Supp. 81-1). Former Section R6-5-7409 repealed; new Section R6-5-7409 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

**R6-5-7410. Licensed Agency: Application for an Operating Certificate for an Additional Satellite Facility**

- A. A currently licensed agency that wishes to obtain an operating certificate for an additional satellite facility shall send the Licensing Authority a letter of intent. The letter of intent shall include the following information:
- 1. The applicant's name, address, and telephone and telefacsimile numbers;
  - 2. The name of the applicant's chief executive officer or administrator;
  - 3. The name, address, and telephone and telefacsimile numbers of the additional facility;
  - 4. A request that the Licensing Authority schedule the additional facility for a DHS health and safety inspection;
  - 5. The name of the person who will be in charge of the additional facility, with a description of that person's qualifications;
  - 6. A description of program and services to be offered at the proposed facility, including any policy or procedures unique to the facility;
  - 7. A statement as prescribed in R6-5-7403(A)(5) for the applicable school district; and
  - 8. All of the information listed in R6-5-7405(A) that differs from the information already on file for the agency, including:
    - a. Floor plan,
    - b. Fire inspection,
    - c. Zoning clearance letter,
    - d. Certificate of insurance,
    - e. Evidence of financial stability,
    - f. List of paid staff with the information required by R6-5-7405(A)(3), and
    - g. Facility staffing schedule.

- B. Upon receipt of all information listed in subsection (A), and a report of the DHS health and safety inspection, the Licensing Authority shall schedule the facility for a site inspection, as provided in R6-5-7406.
- C. The Licensing Authority shall prepare a licensing study and issue a licensing decision on the application for the additional operating certificate as prescribed in R6-5-7407 through R6-5-7408. In determining whether to grant an additional operating certificate to an agency operating under a provisional license, the Licensing Authority shall also consider:
  - 1. The nature and extent of the problems giving rise to the deficiency that caused the agency to be placed on provisional license status; and
  - 2. The agency's progress on its corrective action to resolve the problems.
- D. An operating certificate for an additional satellite facility expires at the end of an agency's regular licensing year.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7410 repealed; new Section R6-5-7410 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

#### R6-5-7411. Application for Renewal of License and Operating Certificates

- A. No earlier than 90 and no later than 60 days prior to the expiration date of a license, an agency may apply to the Licensing Authority for renewal of its license and any operating certificates. The Licensing Authority does not have a duty to notify the agency of license expiration. The agency shall contact the Licensing Authority to request a renewal application and to schedule a DHS health and safety inspection. The agency shall schedule its own fire inspection. Failure to timely apply or obtain inspections may result in suspension of the agency's license until the renewal process is completed.
- B. An agency shall apply for renewal on a Department application form containing the information required in this Section.
- C. An agency shall submit copies of the completed renewal application and supporting documents to the Licensing Authority. If the agency has not amended, changed or updated the information or documentation since the agency last applied for or renewed its license, the agency shall indicate "no change" on the documents submitted with the renewal application.
- D. With a renewal application, the agency shall also submit the following documentation:
  - 1. A current financial statement prepared by an independent certified public accountant who is not employed by the agency;
  - 2. A certificate of current insurance coverage as prescribed in R6-5-7426;
  - 3. A copy of the agency's current budget and the agency's audit report for its preceding fiscal year;
  - 4. Identification of and the following background information on the agency, facility, and administrators:
    - a. Name, address, and telephone and telefacsimile numbers for the agency and all facilities operated by the agency;
    - b. Name, title, business address, and telephone and telefacsimile number of:
      - i. The person who serves as the chief executive officer (CEO) as prescribed in R6-5-7432(A);
      - ii. The person who serves as the program director as prescribed in R6-5-7432(B);
      - iii. The person with delegated authority to act when the CEO is absent;
    - c. The educational qualifications and work history for each person listed in subsection (D)(4)(b), with that person's attached resume, employment application, or curriculum vitae;
    - d. A list of the members of the agency's governing body described in R6-5-7424, including name, address, position in the agency, term of membership, and any relationship to the applicant;
    - e. A list of licenses or certificates for provision of medical or social services currently or previously held by the applicant or persons listed in subsection (D)(4)(b), including those held in this state or another state or country; the list shall include the dates the person held the license or certificate;
    - f. A written description of any proceedings for denial, suspension, or revocation of a license or certificate for provision of medical, psychological, behavioral health, or social services, pending or filed, or brought against the applicant or a person listed in subsection (D)(4)(b), including those held in this state or another state or country; and
    - g. A written description of any litigation in which the applicant or a person listed in subsection (D)(4)(b) has been a party during the 10 years preceding the date of application, including, collection matters and bankruptcy proceedings.
  - 5. An organizational chart for the agency and each separate facility, showing administrative structure and staffing, and lines of authority.
  - 6. The following information on staff:
    - a. A list of applicant's paid staff, including:
      - i. Name;
      - ii. Position or titles;
      - iii. Degrees, certificates, or licenses held;
      - iv. Business address;
      - v. Date of hire;
      - vi. Date of last physical; and
      - vii. Date of submission for fingerprinting and background clearance;
    - b. For any staff whose primary residence is the facility:
      - i. The name and date of birth of any persons residing with a staff member;
      - ii. Evidence that any adult residing with a staff member has submitted fingerprints and criminal background information as prescribed in R6-5-7431 and is free from communicable diseases posing a danger to children in care, as prescribed in R6-5-7431(H); and
      - iii. Evidence that the staff member's children who reside at the facility have current immunizations.
  - 7. Copies of any written complaints the agency has received about its performance at its facilities during the expiring license year and the agency's response to the complaints; and
  - 8. A written description of any changes in program services or locations, or the children served by the agency.
- E. For a renewal application, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) begins

when the applicant submits a renewal application form and the required documentation listed in this Section.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7411 repealed; new Section R6-5-7411 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### **R6-5-7412. Renewal of License and Operating Certificates: Site Inspection; Time-frames; Standard for Issuance**

- A. Upon receipt of a complete renewal application, the Licensing Authority shall schedule the renewal applicant for a DHS health and safety inspection.
- B. Upon receipt of the DHS inspection report and a complete renewal application package, the Licensing Authority shall schedule the applicant for a site inspection of the agency and each agency facility.
- C. At the renewal site inspection, the licensing representative shall investigate the agency and facilities as prescribed in R6-5-7406, and may also:
  1. Interview staff,
  2. Interview clients and references,
  3. Observe staffings,
  4. Review a random sample of client and staff files,
  5. Conduct field visits to agency branch offices and facilities.
- D. For a renewal application, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is 45 days. Before expiration of the time-frame, the Licensing Authority shall send the applicant written notice of administrative completeness or deficiency as prescribed in A.R.S. § 41-1074(A).
- E. If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Licensing Authority may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.
- F. The Licensing Authority shall issue a licensing decision within 25 calendar days of concluding the applicant's final site visit. This 25-day period is the substantive review time-frame under A.R.S. § 41-1072(3). The overall time-frame for a issuance of a renewal license is 70 days.
- G. The Licensing Authority may renew an agency's license and any operating certificate for its facility when the agency and facility:
  1. Demonstrate compliance with the standards set forth in applicable statutes and this Article;
  2. Have complied with applicable statutes and the requirements of this Article during the expiring period of license; and
  3. Have corrected any problems that resulted in imposition of a provisional license.
- H. The Licensing Authority shall issue a renewal licensing decision as prescribed in R6-5-7408(B).

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7412 repealed; new Section R6-5-7412 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

#### **R6-5-7413. Notification to Licensing Authority of Changes Affecting License; Staff Changes**

- A. A licensee shall send the Licensing Authority written notification of any planned change in the licensee's name, ownership,

agency location, facility location, governing board member, chief executive officer, or program director, at least one month before the change. If the change occurs without sufficient time for prior written notice, the licensee shall orally notify the Licensing Authority as soon as the change is known, and shall send the Licensing Authority written confirmation within 48 hours of giving oral notice.

- B. If a licensee wishes to make a substantial change as described in subsection (C), the licensee shall:
  1. Provide the Licensing Authority with prior written notice of the change at least one month before the effective date of the change; and
  2. Apply for an amended license as prescribed in R6-5-7414.
- C. As used in subsection (B), "substantial change" means any of the following:
  1. An event that will cause the licensee to be out of compliance with:
    - a. The terms stated on the face of the license or an operating certificate; or
    - b. A standard prescribed in this Article;
  2. A change in a building or a physical site at the agency or facility if that change will alter the level or nature of care provided to children; or
  3. Substantive revision of the policies and procedures required by this Article.
- D. Within five work days of a paid staff member's hiring or separation, the licensee shall complete and send the Licensing Authority a Department form LC-008, "Child Welfare Agency Employee Central Registry," with the following information on the paid staff member:
  1. Name,
  2. Date of birth,
  3. Social security number,
  4. Date fingerprinted and fingerprinting results,
  5. Position held,
  6. Date of and reason for separation from employment, and
  7. Opportunity for rehire.

#### Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7413 repealed; new Section R6-5-7413 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

#### **R6-5-7414. Amended License or Operating Certificate**

- A. The Licensing Authority may issue an amended license or operating certificate to reflect a change in an agency or facility name or the terms of a license or an operating certificate if the change does not cause the agency or facility to fall out of compliance with applicable statutes and this Article.
- B. The Licensing Authority shall not issue a license for an agency or an operating certificate for a facility that has moved to a new location until the agency or facility has:
  1. Provided the information listed in R6-5-7405(A)(8),
  2. Passed a DHS health and safety inspection,
  3. Passed a fire inspection,
  4. Passed a Licensing Authority site inspection, and
  5. Submitted any new staff and household members for fingerprinting and criminal background checks as prescribed in A.R.S. § 46-141 and R6-5-7431.
- C. An amended license or operating certificate expires at the end of the agency or facility's regular licensing year.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7415. Alternative Method of Compliance**

- A. The Licensing Authority, with the approval of the Attorney General's Office, may permit a licensee to substitute an alternative method of compliance for a licensing requirement or objective prescribed in this Article and not otherwise required by law, if the following conditions are met:
1. The licensee seeking to achieve compliance through an alternative methodology proposes, to the satisfaction of the Licensing Authority, that the licensee can satisfy the objective of the requirement through the alternative methodology; and
  2. Allowing the licensee to achieve compliance through an alternative method will not jeopardize the health, safety, or well-being of children who are or may be placed in the licensee's care.
- B. Approval of an alternative methodology expires as prescribed in the written letter authorizing the alternative, or at the end of the licensing year, and must be annually renewed.
- C. The Licensing Authority is not obligated to permit an alternative method of compliance or to renew approval of the alternative methodology.
- D. The Licensing Authority shall document the alternative and the findings required by subsection (A) in the licensing file.
- E. The Licensing Authority may revoke the licensee's permission to comply through an alternative method if the Licensing Authority finds that a condition listed in subsection (A)(1) or (2) is not met.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7416. Monitoring**

- A. The Licensing Authority shall monitor the ongoing operations of agencies and facilities.
- B. Monitoring activities may include the following:
1. Announced and unannounced inspections of an agency or a facility, including both physical premises and internal operations, books, records, policies, procedures, logs, manuals, files, inspection reports, certificates, and any other document prescribed by this Article;
  2. Interviews with clients, staff, or other persons with information about the agency; and
  3. Observation of program activities.
- C. A licensee shall cooperate with the Licensing Authority's monitoring functions. Cooperation includes:
1. Making the agency, facility, and program activities available to licensing representatives for inspection and observation;
  2. Providing the Licensing Authority with information or documentation requested;
  3. Making staff available for interview; and
  4. Allowing children in care to be interviewed.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7417. Complaints; Investigations**

- A. If the Licensing Authority receives an oral complaint about a licensee, agency, or facility, the Licensing Authority shall ask the complaining party to submit the complaint in writing, but shall investigate complaints as prescribed in this Section even if the complaining party does not put the complaint in writing.
- B. The Licensing Authority shall refer all complaints involving allegations of child maltreatment to CPS as required by A.R.S. § 13-3620 for investigation as prescribed in A.R.S. § 8-546.01(C).

- C. The Licensing Authority shall investigate complaints about a licensee through one or more of the following methods:
1. Telephone contact with the licensee,
  2. Interviews with the complaining party,
  3. Interviews with the licensee's staff,
  4. Interviews with the licensee's clients,
  5. Interviews of witnesses to the matters at issue,
  6. Inspections of records and documents related to the issues raised in the complaint,
  7. Announced and unannounced inspections of the agency or a facility,
  8. Evaluation of a law enforcement or CPS report for evidence of a licensing violation, and
  9. Any other activity necessary to validate or refute the allegations.
- D. A licensee shall cooperate in any Department investigation as prescribed in R6-5-7416(C).
- E. Upon completion of an investigation as described in subsection (C), the Licensing Authority shall:
1. Find that the complaint is invalid, document the findings in the agency's licensing file, and close the investigation;
  2. Find that the complaint is valid and take disciplinary action against the licensee as prescribed in R6-5-7419 and R6-5-7420, or require corrective action as prescribed in R6-5-7418; or
  3. Find that the complaint cannot be validated or refuted based on the available evidence and document the finding in the licensing file.
- F. The Licensing Authority shall provide the licensee with an oral report of any findings made under subsection (E) and, upon the licensee's request, a copy of the written findings placed in the licensee's file. At the time of giving the oral report, the licensing representative shall advise the licensee of the opportunity to obtain a copy of the written findings.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7418. Corrective Action**

- A. If a deficiency is correctable within a specified period of time and does not jeopardize the health or safety of a child, the Licensing Authority may place the agency on a corrective action plan to cure the deficiency in lieu of the disciplinary measures prescribed in R6-5-7419 and R6-5-7420.
- B. In determining whether to require corrective action in lieu of other disciplinary action, the Licensing Authority shall consider the following criteria:
1. The nature of the deficiency;
  2. Whether the deficiency can be corrected;
  3. Whether the licensee and its affected staff understand the deficiency and show a willingness and ability to participate in corrective action;
  4. The length of time required to implement corrective action;
  5. Whether the same or similar deficiencies have occurred on prior occasions;
  6. Whether the licensee has had prior corrective action plans, and, if so, the licensee's success in achieving the required goals of the plan;
  7. The licensee's history in providing care; and
  8. Other similar or comparable factors demonstrating the licensee's ability and willingness to follow through with a corrective action plan and avoid future deficiencies.
- C. The agency shall prepare a corrective action plan for the review and approval of the Licensing Authority.
1. The plan shall explain:

- a. How the agency will remedy the non-compliance;
  - b. The time periods for completing all corrective action; and
  - c. The agency staff responsible for carrying out the corrective action plan.
- 2. The plan shall provide for the agency to send the Licensing Authority periodic reports on the agency's progress, and a final report when all corrective action is completed.
- 3. An authorized representative of the agency shall sign and date the corrective action plan.
- D.** In deciding whether to approve a plan, the Licensing Authority shall ensure that the plan:
  - 1. Will correct the identified deficiency within a specified period of time;
  - 2. Identifies persons responsible for executing the steps listed in the plan; and
  - 3. Permits the Licensing Authority to monitor the Licensee's progress in completing the plan.
- E.** The Licensing Authority may conduct announced and unannounced inspections of the agency or facility to monitor implementation of a corrective action plan. The licensee shall cooperate in any monitoring inspection as prescribed in R6-5-7416(C).

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7419. Provisional License

- A.** If an agency or a facility is temporarily unable to conform to the standards prescribed in this Article, the Licensing Authority may issue a provisional license to the agency, or convert a regular license to provisional status, as prescribed in A.R.S. § 8-505(C). For the purpose of this Section, "temporarily unable" means a time period of six months or less.
- B.** The Licensing Authority may impose provisional license status on an agency operating multiple facilities even though less than all facilities are out of compliance.
- C.** The Licensing Authority may issue a provisional license only when:
  - 1. The non-compliance is correctable; and
  - 2. The non-compliance does not jeopardize the health, safety, or well-being of children in care.
- D.** If the Licensing Authority issues a provisional license, the agency shall cooperate with the Licensing Authority to develop a written corrective action plan that meets the requirements of R6-5-7418(C) and (D) and shall comply with the terms of the plan.
- E.** If an agency receives a provisional license at the time of annual renewal and the license is later converted to a regular license during the agency's licensing year, the regular license expires one year from the date the provisional license was issued.
- F.** If an agency receives a regular license at the time of annual renewal, and the license is converted to a provisional license during the agency's licensing year, the agency's license expires one year from the date the regular license was issued.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7420. Denial, Suspension, and Revocation of a License or Operating Certificate

- A.** The Licensing Authority may deny, suspend, or revoke a license or operating certificate when:

- 1. An applicant or licensee has violated or is not in compliance with licensing rules and standards, Arizona state or federal statutes, or city or county ordinances or codes;
- 2. An applicant or licensee refuses to cooperate with the Licensing Authority in providing information required by these rules or any information required to determine compliance with these rules;
- 3. An applicant or licensee misrepresents or fails to disclose information to the Department regarding qualifications, experience, or performance of duties;
- 4. A licensee fails to cooperate in developing a corrective action plan after a request by the Licensing Authority, or fails to comply with a corrective action plan; or
- 5. An applicant or licensee is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children in care.
- B.** In determining whether to deny a license, to take disciplinary action against a licensee, or to renew a license, the Licensing Authority may consider the licensee's past history from other licensing periods, both in Arizona and in other jurisdictions, and shall consider a pattern of violations of applicable child welfare statutes or rules, as evidence that an applicant or licensee is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children.
- C.** The Licensing Authority shall deny, suspend, or revoke a license when an individual applicant or licensee has been convicted of or is awaiting trial on the criminal offenses listed in A.R.S. § 46-141.
- D.** The Licensing Authority shall deny, suspend, or revoke a license when an agency or facility:
  - 1. Retains staff who have been convicted of or are awaiting trial on the criminal offenses listed in A.R.S. § 46-141;
  - 2. Allows an adult other than those described in subsection (D)(1), who has been convicted of or is awaiting trial on the offenses listed in A.R.S. § 46-141, to reside at a facility; or
  - 3. Allows any staff or other adult at the facility, who has committed an offense listed in A.R.S. § 46-141(D), to have contact with children in care.
- E.** The Licensing Authority may deny, suspend, or revoke a license when an applicant or licensee, any staff member, or any other adult who resides at the facility, has been convicted of or found by a court to have committed, or is awaiting trial on any criminal offense, other than those listed in A.R.S. § 46-141. In determining whether a person's criminal history affects an applicant's or licensee's fitness to hold a license, the Licensing Authority shall consider all relevant factors, including the following:
  - 1. The extent of the person's criminal record, if any;
  - 2. The length of time which has elapsed since the offense was committed;
  - 3. The nature of the offense and whether the offense was originally classified as a felony or a misdemeanor;
  - 4. The circumstances surrounding the offense;
  - 5. The degree to which the person participated in committing the offense;
  - 6. The extent of the person's rehabilitation; and
  - 7. The person's role within the agency or facility.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7421. Adverse Action; Procedures; Effective Date

- A.** When the Licensing Authority plans to take adverse action against a licensee, the Licensing Authority shall give the licensee written notice of the adverse action by certified mail.

- B.** The notice shall specify:
1. The action taken;
  2. All reasons supporting the action;
  3. The sections of law justifying the action;
  4. The procedures by which an applicant or licensee may contest the action taken, and the time periods for doing so;
  5. An explanation of the applicant or licensee's right to request an informal settlement conference as prescribed in A.R.S. § 41-1092.03(A); and
  6. If the Licensing Authority summarily suspends a license as provided in A.R.S. § 41-1064(C), the required finding of emergency.
- C.** The following actions are not appealable adverse actions:
1. Imposition of a corrective action plan to bring the licensee into compliance with licensing requirements, absent any material change in licensing status;
  2. Denial or revocation of permission for an alternate method of compliance or operation of a barracks facility as prescribed in R6-5-7461(B) and R6-5-7462(B); and
  3. A staff member's failure to clear the criminal history check prescribed in R6-5-7431(B).
- D.** Except as otherwise provided in A.R.S. § 41-1064 for emergency suspensions, adverse action is effective:
1. If a licensee does not appeal the adverse action, 31 days after the postmark date of the notice prescribed in subsection (A); or
  2. If the licensee appeals the adverse action, when there is a final administrative decision, as prescribed in A.R.S. § 41-1092.08(D), affirming the adverse action.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7422. Appeals

- A.** An applicant may appeal the denial of a license and a licensee may appeal adverse action under A.R.S. § 8-506.01 and A.R.S. Title 41, Chapter 6, Article 10.
- B.** The applicant or licensee shall file a notice of appeal with the Licensing Authority. The notice shall contain the information required by A.R.S. § 41-1092.03(B).

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7423. Statement of Purpose; Program Description and Evaluation; Compliance With Adopted Policies; Client Rights; Single Category of Care

- A.** A licensee shall have a written statement which describes its philosophy, purpose, and program for children in care, and the nature and extent of any family involvement in the program.
- B.** A licensee shall have a written description of all services each facility provides to children in care and their families and the methods of service delivery.
- C.** A licensee shall follow all plans, policies, and procedures the licensee adopts in accordance with this Article.
- D.** A licensee shall annually evaluate whether a facility is achieving the objectives described in R6-5-7405(A)(5)(c)(i). The licensee shall make a written report of the evaluation and provide a copy to the Licensing Authority at the time of license renewal.
- E.** A licensee shall have a statement of client rights.
- F.** A licensee shall not combine its child welfare program, as defined pursuant to subsection (A), with other forms of care or programming such as child care, nursing or convalescent care for adults, or adult developmental care unless the licensee:

1. Physically separates children in the child welfare program from persons in other programs, and
2. Prevents interaction between children in the child welfare program and persons in other programs.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7424. Governing Body

- A.** A licensee shall have a governing body to oversee the operations, policies, and practices of the agency and its facilities. The governing body shall be:
1. The board of directors for an agency that is a non-profit corporation, or
  2. The board of directors or individual owner of an agency that is a for-profit organization.
- B.** The governing body shall:
1. Ensure that the licensee provides the services described in the licensee's statement of purpose;
  2. Adopt an annual budget of anticipated income and expenditures necessary to provide the services described in the licensee's statement of purpose;
  3. Approve the licensee's annual financial audit report;
  4. Establish a policy and procedure for selection and retention of staff sufficient to operate the agency and its facilities in accordance with this Article;
  5. Unless the licensee is a sole proprietorship, meet at least four times each year, and maintain records of attendance and minutes of the meetings;
  6. Develop criteria and written procedures for selection of the governing body members, and the chief executive officer as required by R6-5-7432(A);
  7. Employ a chief executive officer who meets the qualifications prescribed in R6-5-7432(A), to whom the governing body shall delegate responsibility for the daily administration and operation of the agency;
  8. Regularly evaluate the chief executive officer's performance; and
  9. Review and approve the agency's policies and procedures, and any amendments to them.
- C.** A licensee shall maintain a list of the governing body's members; the list shall include each member's the name, address, term of membership, and relationship to the licensee, if any.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7425. Business and Fiscal Management; Annual Audit

- A.** A licensee shall maintain complete and accurate accounts, books, and records as prescribed in this Article, and in accordance with generally accepted accounting practice.
- B.** A licensee shall operate on the annual budget approved by its governing board.
- C.** A licensee shall regularly record its financial transactions and maintain, for five years, its financial records including receipts, disbursements, assets, and liabilities.
- D.** A licensee shall have an annual, fiscal year-end, financial audit by an independent certified public accountant who shall conduct the audit in accordance with generally accepted auditing standards. The audit report shall include the following financial information:
1. Income statement,
  2. Balance sheet,
  3. Statement of cash flow,
  4. A statement showing monies or other benefits the licensee has paid or transferred to any of the following:



- a. Business entities affiliated with the licensee,
- b. The licensee's directors or officers,
- c. The licensee's chief executive officer or program director,
- d. The family member of a person listed in subsections (D)(2)(e)(ii) or (iii), or
- e. Another agency.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7426. Insurance Coverage**

A licensee shall have insurance coverage that provides protection against financial loss as prescribed in this Section.

- 1. The licensee shall carry liability insurance covering accidents, injuries, errors and omissions in the minimum amount of \$100,000 per person, and \$300,000 per accident or event.
- 2. The licensee shall ensure that any vehicle the licensee owns or uses to transport children in care has the following insurance coverage:
  - a. Injury per person: \$100,000,
  - b. Injury per accident: \$300,000, and
  - c. Property damage: \$25,000.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7427. Confidentiality**

- A. Except as otherwise allowed by law, a licensee's records concerning children in care and their families are confidential, and the licensee shall not disclose or knowingly permit the disclosure of confidential information.
- B. A licensee shall have written policies and procedures for keeping records secure, in a manner that preserves confidentiality and prevents loss, tampering, or unauthorized use. The policies and procedures shall:
  - 1. Be consistent with any laws applicable to the specific records at issue; and
  - 2. Cover the following:
    - a. The form in which children's records are maintained and stored;
    - b. Identification of the staff who:
      - i. Supervise the maintenance of records,
      - ii. Have custody of records, and
      - iii. Have access to records;
    - c. The persons to whom records may be released and under what circumstances records may be released, including release of information to custodial and non-custodial parents and guardians;
    - d. Photography, audio or audio-visual recording, and public identification of children; and
    - e. Participation of children or use of children's records in data research.
- C. Before using personally identifiable information for publicity, fundraising, or research, a licensee shall obtain:
  - 1. A written consent to release, as prescribed in subsection (E), from the child who is the subject of the information, if developmentally appropriate; and
  - 2. A written consent to release, as prescribed in subsection (E), from the child's placing agency or person; or
  - 3. Written authorization from the court, if the child is a ward of the court.
- D. A licensee may release personally identifiable information about a child or family to persons who require the information

to treat or provide services to the child unless the release is prohibited by law.

- E. A consent to release shall include the following information:
  - 1. The name of the person or agency to whom the information is to be released;
  - 2. A description of the information to be disclosed;
  - 3. The reason for disclosure;
  - 4. The expiration date of the consent, not to exceed six months from date of signature; and
  - 5. The dated signature of the person authorizing the release.
- F. Notwithstanding any other provision of this Article, in a medical emergency, the licensee shall promptly release information from a child's record to persons who require the information to treat the child.
- G. A licensee may withhold information if, in the judgment of the professional person treating the child, or the agency's program director, the release of information would be contrary to the child's best interests, unless the release is:
  - 1. Ordered by a court,
  - 2. Mandated by federal or state law,
  - 3. Required by the licensee's agreement with the placing agency or person, or
  - 4. Required by the Department to assess the licensee's compliance with the law.
- H. If a licensee withholds information pursuant to subsection (G), the licensee shall:
  - 1. Document, in the child's record, the reason for withholding the information;
  - 2. Advise the person who requested the information that the person may grieve the withholding pursuant to the licensee's internal grievance process adopted in accordance with R6-5-7429.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7428. Children's Records: Contents, Maintenance, Destruction**

- A. A licensee shall maintain a current, separate case record for each child in care. The record shall be readily accessible to persons providing services to the child and shall include at least the following information:
  - 1. The name, gender, race, religion, birthdate, and birthplace of the child;
  - 2. The name, address, telephone number, and marital status of the child's parents;
  - 3. The date of admission and source of referral;
  - 4. The name, address, telephone number, and relationship to the child of the person with whom the child was living prior to admission, if other than the child's parent;
  - 5. All documents related to the child's referral and admission of the child to the facility;
  - 6. Documentation of the current custody and legal guardianship of the child;
  - 7. The child's court status, if applicable;
  - 8. Consent forms signed by the placing agency or person at the time of placement, allowing the licensee to authorize necessary medical care, medications, routine tests, and immunizations;
  - 9. Service plans and all reviews, revisions, notes, and updates reflecting the child's and family's goals, and progress towards achievement of goals;
  - 10. A plan for permanent placement of the child;
  - 11. Education records and reports;
  - 12. Vocational training and employment records, if applicable;

13. Treatment and clinical records and reports; and
14. The discharge summary required by R6-5-7442(B).
- B.** A licensee shall have the medical records required by R6-5-7455. While the child is in care, the licensee may keep the child's medical records in a location separate from the records described in this Section. If the licensee keeps medical records in a separate location, the child's main record shall identify the location of the medical record.
- C.** All record entries shall be made in permanent ink or electronically. The licensee shall require personnel to date and legibly sign entries in a child's records.
- D.** If a licensee maintains a child's records in more than one place, the licensee shall:
  1. Identify, in one location that is readily accessible to inspection by the Licensing Authority, the location of all parts of the record; and
  2. Consolidate all records and notes into one case file, at one location, within 15 days following either:
    - a. A request for consolidation from the Licensing Authority; or
    - b. The date of the child's discharge from the facility.
- E.** A licensee shall maintain a child's record for the longest of the following time periods:
  1. At least five years after the child's last discharge from the licensee's care;
  2. At least three years after the child's 18th birthday; or
  3. Another time period specified by applicable law or contract.
- F.** A licensee shall dispose of expired records in a manner that maintains confidentiality.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7429. Grievances

- A.** A licensee shall have a written policy and written procedures governing the receipt, consideration, and resolution of grievances brought to the licensee by children in care and their parents, regarding the licensee's program and care of children. The procedures shall:
  1. Be written in a clear and simple manner that is developmentally appropriate for children in care;
  2. Prohibit reprisal or retaliation against an individual who brings a grievance for the act of bringing the grievance;
  3. Describe a process for fair and expeditious resolution of a grievance; and
  4. Provide a means to tell the grievant about the action taken in response to the grievance.
- B.** A licensee shall maintain written records of grievance decisions for at least 12 months after the resolution.
- C.** The licensee shall maintain a log of grievances filed against the licensee. The licensee may keep a centralized agency log, or can maintain a separate log for each facility. The log shall include the following information:
  1. Name of grievant;
  2. Date grievance filed;
  3. Description of the substance of the grievance;
  4. Summary of the grievance resolution;
  5. A copy of the grievance decision required by subsection (B), or a description of where the Licensing Authority can find the decision.
- D.** Copies of the grievance decisions may serve as the grievance log if:
  1. The copies are kept in one central location that is readily accessible to the Licensing Authority,

2. The grievance decisions contain all the information listed in subsection (C), and
3. The licensee retains the decisions for at least three years following the date of grievance resolution.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Numbering for subsections (C) and (D) amended to correct typographical errors (Supp. 00-3).

#### R6-5-7430. Staff Management and Staff Records

- A.** A licensee shall have written staff policies and procedures which shall describe:
  1. How the licensee recruits, screens, hires, supervises, trains, retains, develops, evaluates, disciplines, and terminates staff;
  2. How the licensee handles staff resignations;
  3. A job title, description and minimum qualifications for each position within the agency and all facilities;
  4. The duties assigned to each position;
  5. How the licensee handles staff grievances;
  6. An organizational chart for the agency and all facilities; and
  7. A method to assure privacy of staff records.
- B.** The licensee shall give all staff a copy of the person's own job description and allow staff access to the licensee's staff policies and procedures.
- C.** A licensee shall maintain a personnel record for all paid staff. The record shall include the following information, if applicable:
  1. Application for employment including previous employment history and educational background;
  2. Reference letters and documentation of phone notes on references that are dated and signed;
  3. Documentation of the highest level of education achieved; the documentation may include a copy of a diploma, equivalence certificate, or record of notes of calls to educational institutions;
  4. Medical examination reports on paid staff as required by R6-5-7431(F);
  5. Medical examination reports on any other adult residing at the facility showing that the adult is free from communicable diseases as required by R6-5-7431(H);
  6. Medical and immunization records on children who reside at the facility but are not in care, as required by R6-5-7431(H);
  7. Copies of applicable professional licenses, credentials, and certifications, as required by R6-5-7431(A);
  8. Documentation of fingerprinting and criminal records clearance as required by A.R.S. § 46-141 and R6-5-7431(B);
  9. Record of all orientation and training received during employment;
  10. Documentation showing that the paid staff member has read and agrees to abide by the facility's behavior management policies and procedures which shall include the dated signature of the paid staff member and a witness;
  11. Documentation showing that the paid staff member has a valid driver's license if the paid staff member transports children;
  12. Reports of all performance evaluations;
  13. Documentation of any personnel actions or investigations that result in a written report;
  14. Dates the paid staff member started and separated from employment; and
  15. Reason for separation from employment.

- D.** A licensee shall maintain a personnel record on unpaid staff. The record shall include the following information, if applicable:
1. Application for work or study, including previous employment history and educational background;
  2. Reference letters and documentation of phone notes on references that are dated and signed;
  3. Medical examination reports, as required by R6-5-7431(F);
  4. Copies of applicable professional licenses, credentials, and certifications, as required by R6-5-7431(A);
  5. Documentation of fingerprinting and criminal records clearance as required by A.R.S. § 46-141 and R6-5-7431(B);
  6. Record of all orientation and training received while affiliated with the licensee;
  7. Documentation showing that the person has read and agrees to abide by the facility's behavior management policies and procedures which shall include the dated signature of the person and a witness;
  8. Documentation showing that the person has a valid driver's license if the person transports children;
  9. Reports of all performance evaluations;
  10. Documentation of any personnel actions or investigations that result in a written report;
  11. Dates the person began and ended affiliation with the licensee; and
  12. Reason for ending affiliation with the licensee.
- E.** The licensee shall keep personnel records for at least three years after the staff member's separation from the licensee.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7431. General Qualifications for Staff**

- A.** A licensee shall ensure that all staff providing services to children and their families under the licensee's program are currently certified, registered, or licensed as required by state law.
- B.** As prescribed in A.R.S. § 46-141, all staff having direct contact with children, and any persons age 18 or older who live at a facility, excluding children in care, shall be fingerprinted and shall certify on notarized forms provided by the Department whether they:
1. Are awaiting trial on or have ever been convicted of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
    - a. Sexual abuse of a minor;
    - b. Incest;
    - c. First or second degree murder;
    - d. Kidnapping;
    - e. Arson;
    - f. Sexual assault;
    - g. Sexual exploitation of a minor;
    - h. Contributing to the delinquency of a minor;
    - i. Commercial sexual exploitation of a minor;
    - j. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs;
    - k. Burglary;
    - l. Robbery;
    - m. A dangerous crime against children as defined in A.R.S. § 13-604.01;
    - n. Child abuse;
    - o. Sexual conduct with a minor;
    - p. Molestation of a child;
    - q. Manslaughter;
    - r. Aggravated assault; and

2. Have ever committed any of the acts listed in subsections (B)(1)(a), (g), (i), (m), (n), (o), and (p).

- C.** A licensee shall not knowingly employ, retain, or allow to reside at a facility, any staff, or person age 18 or above, who is awaiting trial on or has been convicted of any of the criminal offenses listed in subsection (B), or the same or similar offenses in another state or jurisdiction. A licensee shall not knowingly allow a person who has committed any of the offenses listed in subsection (B)(2) to have contact with children in care.
- D.** For all staff, a licensee shall:
1. Verify at least two years immediate, or most recent, past employment through reference checks;
  2. Obtain at least three references from persons not related to the staff member by blood or marriage, who can attest to the staff member's character, knowledge, and skill.
- E.** The licensee shall document verification of the reference information required in subsection (D).
- F.** A licensee shall have staff providing direct care to children obtain a physical examination by a licensed medical practitioner before beginning assigned duties and at least every two years while working.
- G.** All staff shall be free from any communicable disease that poses a danger to children in care and shall have the capacity to perform the essential functions of that person's job.
- H.** Other adults who reside at the facility shall be free from communicable disease that poses a danger to children in care. Children who reside at the facility but are not in care shall have current immunizations and be free from communicable disease that poses a danger to children in care.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions**

- A.** Chief Executive Officer "CEO": A licensee shall have a chief executive officer for the agency. The CEO:
1. Is responsible for general management, administration, and operation of the agency in accordance with this Article;
  2. Ensures that:
    - a. Each child in care receives necessary professional services;
    - b. Appropriately qualified staff render services to children in care; and
    - c. The services are coordinated;
  3. Shall have management experience and meet any other qualifications prescribed by the Governing Body;
  4. Shall reside in Arizona;
  5. Shall be accessible to staff, representatives of the Licensing Authority, and other governmental agencies; as used in this subsection, "accessible" means readily available to answer questions and to handle problems or emergencies that arise, either personally or through a chain of command; and
  6. Shall designate a qualified person to perform administrative responsibilities whenever the CEO is inaccessible.
- B.** Program Director: A licensee shall have at least one person who is responsible for development, implementation, and supervision of an agency's programs and services. This person shall have at least:
1. A master's degree in social work or a related area of study from an accredited school and at least one year experience in the child welfare or child care services field; or

2. A bachelor's degree in social work or a related area of study from an accredited school and two years of experience in the child welfare or child care services field.
- C. Facility Supervisor: If a licensee operates more than one facility, the licensee shall designate a person to supervise the operations of each facility.
- D. Supervisors: Any staff member who supervises, evaluates, or monitors the work of the direct care staff shall have at least six months paid child care experience and at least 3 1/2 years of any combination of the following:
  1. Paid child care or related experience; or
  2. Post-high school education in social work or a related field.
- E. Direct Care Staff: A person who supervises, nurtures, or cares for a child in care shall have at least:
  1. A high school diploma or equivalency degree and one year experience in working with children; or
  2. One year post-high school education in a program leading to a degree in the field of child welfare or human services.
- F. Program Instructors: A person who supervises, trains, or teaches children in the performance of a physical activity that poses an unusually high risk of harm, such as archery, river rafting, rock climbing, caving, rappelling, and hang gliding, shall:
  1. Be currently certified to perform the activity, if applicable;
  2. Have at least three years of experience related to the activity; or
  3. Have at least three letters of reference attesting to skill and experience in the activity.
- G. CPR and First Aid Certification: A licensee shall ensure that:
  1. Direct care staff are certified in pediatric cardiopulmonary resuscitation (CPR) and in first aid by the American Red Cross, the American Heart Association, or the Arizona Chapter of the National Safety Council within three months of being hired and before caring alone for children in care.
  2. At least one staff member per shift, per facility is currently certified in CPR and first aid.
- H. Multiple Functions: A licensee may allow one person to perform multiple functions or fill more than one position so long as:
  1. The person performing multiple functions is qualified for the jobs held; and
  2. The licensee does not violate the requirements of this Article, including R6-5-7437 governing staff-child ratios.
- I. Exclusions: The educational requirements set forth in this Section do not apply to persons employed with a licensee on the effective date of this Article. These requirements do apply to:
  1. Persons hired as employees after the effective date of this Article; and
  2. Persons who:
    - a. Are employed with a licensee on the effective date of this Article;
    - b. Subsequently separate from that employment; and
    - c. Later seek employment with the same or a different licensee.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### R6-5-7433. Orientation and Training for Staff

- A. A licensee shall have a written plan for orientation and training of all staff. The plan shall include a method for the licensee to evaluate whether the person has actually learned the information that was the subject of orientation or training.
- B. All staff shall receive initial orientation and training before assignment to solo supervision of children. The initial orientation and training shall include:
  1. Acquainting staff with the licensee's philosophy, organization, program, practices, and goals;
  2. Familiarizing staff with the licensee's policies and procedures, including those on confidentiality, client and family rights, grievances, emergencies and evacuations, behavior management, preventing and reporting child maltreatment, recordkeeping, medications, infection control, and treatment philosophy;
  3. Training staff in cardiopulmonary resuscitation (CPR) and first aid according to American Red Cross guidelines as prescribed in R6-5-7432(G);
  4. Training staff to do the initial health screening prescribed in R6-5-7438(E)(9); the licensee shall have a licensed medical practitioner provide this training;
  5. Training staff in de-escalation and any physical restraint practices used at the facility by an instructor qualified under this subsection. An instructor is qualified to train staff in de-escalation and physical restraint practices if:
    - a. The instructor has a written curriculum that conforms to the requirements of this Article and state law.
    - b. The classroom instruction provided conforms to the requirements of this Article and state law.
  6. Familiarizing staff with the specific child care responsibilities outlined in the person's job description;
  7. Training staff to recognize expected responses to and side effects of medications commonly prescribed for children in care; and
  8. Training staff in the licensee's emergency admissions process if applicable to the licensee's services.
- C. The licensee's training plan for ongoing training shall satisfy the requirements of this subsection.
  1. A full-time support staff member shall receive at least four hours of annual training.
  2. A full-time direct care staff member shall receive at least 24 hours of annual training.
  3. The training shall cover matters related to the person's job responsibilities, and at least the following subjects, as appropriate to the characteristics of the children in care at the facility:
    - a. Child management techniques;
    - b. Discipline, crisis intervention, and behavior management techniques;
    - c. A review of the licensee's policies;
    - d. Health care issues and procedures;
    - e. Maintenance of current certification in CPR and first aid;
    - f. Attachment and separation issues for children and families;
    - g. Sensitivity towards and skills related to cultural and ethnic differences;
    - h. Self-awareness, values, and professional ethics; and
    - i. Children's need for permanency and how the agency works to fulfill this need.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended

by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### **R6-5-7434. Notification of Unusual Incidents and Other Occurrences**

- A.** A licensee shall make a record of any unusual incident on an incident reporting form which shall include the following information:
  1. Location of the unusual incident;
  2. Name and address of any child involved in or observing the incident;
  3. Name of the agency if different from the facility;
  4. Name, title, and address of any staff involved in or observing the incident;
  5. Name and address of any other person involved in or observing the incident;
  6. Date of the incident;
  7. Time of the incident;
  8. Description of the incident; and
  9. Licensee's response to the incident.
- B.** The licensee shall maintain a record of all unusual incidents occurring at the facility in a separate log or place, which shall permit the Licensing Authority to easily locate the incident reporting form if the licensee maintains the form in a location separate from the log.
- C.** When a child in care dies, the licensee shall notify the child's placing agency or person, and the Licensing Authority within two hours of knowledge of the death.
- D.** When a child in care suffers a serious illness, serious injury, or a severe psychiatric episode requiring hospitalization, the licensee shall notify the child's placing agency or person within 24 hours of knowledge of the occurrence.
- E.** A licensee shall comply with the statutory obligation to report child maltreatment, as prescribed in A.R.S. § 13-3620.
- F.** A licensee shall comply with any reporting requirements set forth in the licensee's contracts with placing agencies or persons.
- G.** No later than 5:00 p.m. on the next business day, the licensee shall notify the Licensing Authority when any of the following occurs:
  1. Fire or a natural disaster affecting the licensee;
  2. Law enforcement involvement in which a formal complaint is filed by or against the licensee, but excluding incidents of children cited solely for absence without leave from the facility;
  3. Any incident of alleged child maltreatment of a child in care;
  4. When a child in care or any other person suffers any injury from use of restrictive behavior management, and which requires treatment by a licensed medical practitioner;
  5. When a child in care suffers any physical injury from an incident involving another child in care and requires treatment by a licensed medical practitioner;
  6. When a child in care suffers an injury or psychiatric episode that is severe enough to require hospitalization or external medical intervention for the child; and
  7. When a child in care requires external emergency services including a suicide watch.
- H.** Within five calendar days, a licensee shall give the Licensing Authority written documentation of an event listed in subsection (G) above. The documentation shall contain at least the information required by subsection (A), and may be a copy of the licensee's unusual incident reporting form.
- I.** If a child in care dies, a licensee shall notify the local law enforcement authority and cooperate in any arrangements for examination, autopsy, and burial.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7435. Investigations of Child Maltreatment**

- A.** A licensee shall have written procedures for handling alleged and suspected incidents of child maltreatment, including at least the following provisions:
  1. Reporting suspected incidents of maltreatment to law enforcement or Child Protective Services as required by A.R.S. § 13-3620;
  2. Notifying the Licensing Authority, and notifying the child's placing agency or person if so requested;
  3. Taking precautions to prevent further risk to the child who allegedly suffered the maltreatment and potential risk to other children in care;
  4. Evaluating the retention of any staff who commit or allow child maltreatment; and
  5. If the licensee internally investigates incidents, conducting the internal investigation.
- B.** A licensee shall require all staff to read and sign a statement describing the duty to report child maltreatment as prescribed in A.R.S. § 13-3620.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7436. Runaways and Missing Children**

A licensee shall have a written policy and procedures for handling runaways and missing children. The policy shall include at least the following:

1. Procedures for making staff who provide services to a child with a history of or potential for running away, aware of that child's history or potential;
2. Procedures for immediately notifying the designated administrator of the child's facility or that person's designee when a child is discovered to be missing;
3. Procedures for notifying the local law enforcement agency, the child's placing agency or person, and others as necessary;
4. Procedures to prevent runaways; and
5. Procedures for submitting a written report to the child's placing agency or person within five days or the time specified in the placement agreement.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7437. Staff Coverage; Staff-child Ratios**

- A.** A licensee shall have a written plan to minimize the risk of harm to children. The written plan shall describe the staffing for each facility, for 24 hours per day, seven days per week. The staffing plan shall explain:
  1. How staff coverage is assured:
    - a. When assigned staff are absent due to illness, vacation, or other leaves of absence; and
    - b. During emergencies when only one staff member is on duty; and
  2. The methods the licensee uses to assure adequate communication and support among staff to provide continuity of services to children.
- B.** A licensee shall also have a written staffing schedule for each facility shift; the schedule shall document the staff actually on duty during each shift. The licensee shall retain the schedules in one designated location for at least two years.
- C.** A licensee shall have at least the paid staff to child ratios prescribed in this subsection.

1. Age 12 and above:
    - a. At least one paid staff member for each 10 children when children are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member in each building where children in care are sleeping.
  2. Age 6 through 11:
    - a. At least one paid staff member for each eight children when children are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member in each building where children in care are sleeping.
  3. Age 3 through 5:
    - a. At least one paid staff member for each six children when children are under the licensee's direct supervision and awake.
    - b. At least one paid staff member in each building where children in care are sleeping.
  4. Under age 3:
    - a. At least one paid staff member for each five children when children are under the licensee's direct supervision and awake.
    - b. At least one paid staff member for each six children when children are sleeping.
  5. Nonambulatory children, under age 6: At least one paid staff member for each four children at all times.
  6. Young adults:
    - a. At least one paid staff member onsite for each 10 young adults when young adults are under the licensee's direct supervision and awake.
    - b. During sleep hours, at least one paid staff member onsite for each 20 young adults.
- D.** For the purpose of the paid staff-child ratios in subsection (C):
1. Students and volunteers do not count as staff;
  2. A child who lives at the facility is counted as a child, unless the child is not in the care, custody, and control of the state of Arizona, and the child's parent is:
    - a. In care, residing in the same facility; and
    - b. Determined to be the child's primary caregiver by:
      - i. The placing agency;
      - ii. A court; or
      - iii. The licensee, when subsections (i) and (ii) do not apply;
  3. When a child resides with a parent in a facility licensed under this Article, the licensee shall provide, at the Department's request, documentation of:
    - a. The custodial relationship between parent and child; and
    - b. If applicable, the determination that the parent is an acceptable primary caregiver for the child.
  4. Any paid staff member counted in the ratio shall be someone who is qualified to provide direct child care as prescribed in R6-5-7432(E).
- E.** A licensee shall not fall below the minimum paid staff-child ratios specified in subsection (C), and shall, notwithstanding those ratios, have paid staff:
1. Sufficient to care for children as prescribed in this Article and in the licensee's own program description, statement of purpose, and policies;
  2. That take into account the following factors:
    - a. The ages, capabilities, developmental levels, and service plans of the children in care;
    - b. The time of day and the size and nature of the facility; and
    - c. The facility's history and the frequency and severity of unusual incidents, including runaways, sexual acting-out behavior, disciplinary problems, and injuries.
- F.** A licensee shall have sufficient numbers of qualified staff to perform the fiscal, clerical, food service, housekeeping, and maintenance functions prescribed in this Article and in the licensee's own policies.
- G.** A licensee shall make a good faith effort to employ staff who reflect the cultural and ethnic characteristics of the children in care.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3). Amended by emergency rulemaking at 12 A.A.R. 2233, effective June 1, 2006 for 180 days (Supp. 06-2). Emergency renewed at 12 A.A.R. 4732, effective November 28, 2006 for 180 days (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 2049, effective May 21, 2007 (Supp. 07-2).

#### R6-5-7438. Admission and Intake; Criteria; Process; Restrictions

- A.** Admissions: A licensee shall have a written admissions policy, which shall:
1. Describe the licensee's admission criteria, including:
    - a. Population to be served, including age range, gender, physical development, social behavior, and custody and guardianship status;
    - b. Geographic area of service;
    - c. The needs, problems, and child-related issues best served at the licensee's facility; and
    - d. The method used to assign a child to a particular living unit;
  2. Contain an acknowledgment that the licensee abides by the Interstate Compact on the Placement of Children, the Indian Child Welfare Act, and the Interstate Compact on Juveniles; and
  3. Provide that the licensee shall not refuse admission to any child on the grounds of race, religion, or ethnic origin.
- B.** Age Limit; Continuing Care for Persons in High School: A licensee shall not admit a person who is age 18 or older, except a licensee may continue to care for an individual under age 22 who was a child in care and turned age 18 while in care, as long as the individual is currently enrolled in and regularly attending a high school program or vocational training program. A licensee shall not allow an individual to remain in care after the individual receives a high school degree or certificate of equivalency, or completes the vocational training program.
- C.** Admissions Outside of Criteria: A licensee shall not accept a child who is not within the licensee's admission criteria unless:
1. The placing agency or person specifically authorizes the admission after reviewing the agency's program description;
  2. The admission is consistent with the terms of the agency's license and will not result in a violation of this Article; and
  3. The child's individual service plan explains:
    - a. The reasons for acceptance, and
    - b. How the facility will meet the child's needs.
- D.** Intake Assessment:
1. A licensee shall not accept a child into care unless:
    - a. The child has a current intake assessment covering the child's social, health, educational, legal, family, behavioral, psychological, and developmental history; or

- b. The licensee completes such an assessment within seven days following the child's admission.
  2. In this subsection, "current" means within the six months prior to admission.
- E. Admission and Intake Process and Requirements:** The licensee shall have a written policy and procedures describing the process and requirements for both regular and emergency admissions and intake. The policy shall include the provisions listed in this subsection.
1. The licensee shall have a method to allow a child to participate in admission and intake decisions, including selection of a living unit, if developmentally appropriate and consistent with the licensee's program.
  2. The licensee shall provide the placing agency or person with a reasonable opportunity to participate in admission and intake decisions.
  3. Except for emergency admissions as prescribed in subsection (F), the licensee shall not admit a child unless the licensee has, at the time of or prior to admission:
    - a. A written agreement with the child's placing agency;
    - b. A court order; or
    - c. The written consent of the child's custodial parent or guardian.
  4. The licensee shall obtain any available medical information about the child before or at the time of the child's admission. The information may include:
    - a. A report of a medical examination of the child performed within 45 days prior to admission;
    - b. A report of a dental examination of the child performed within six months prior to admission; and
    - c. The child's and family's medical history.
  5. If the information described in subsection (D)(4) is not available, the licensee shall comply with the requirements of R6-5-7452 to obtain an examination.
  6. At the time of or prior to admission, the licensee shall obtain written consent from the child's placing agency or person for the licensee to authorize routine medical and dental procedures for the child.
  7. If a child is taking medication at the time of admission, the licensee shall:
    - a. If the medication is in its original container, labeled by the dispensing pharmacist with a fill date, prescribing physician, and instructions for administration, document the receipt of the medication as prescribed in subsection (E)(7)(c); or
    - b. If the medication is not in its original container, or if the container is not labeled as described in subsection (E)(7)(a), contact the prescribing physician to verify the medication administration schedule and reason for the medication; and
    - c. Document the contact in the child's medical record required by R6-5-7455 and the medication administration schedule as prescribed in R6-5-7453(B).
  8. A licensee shall not refill a prescription that a child brings at admission without having a licensed medical practitioner determine the child's need for the medication and documenting the need as prescribed in subsection (E)(7)(c).
  9. Within 24 hours of a child's admission, a direct care staff member who has the training prescribed in R6-5-7433(B)(4), or a licensed medical practitioner, shall assess the child's general health, by:
    - a. Looking at the child for signs of obvious physical injury and symptoms of disease or illness;
    - b. Assessing the child for evidence of apparent vision and hearing problems; and
    - c. Documenting any conditions or problems and referring the child for immediate or further assessment or treatment, if indicated.
- F. Emergency Admissions:** In an emergency situation requiring immediate placement, a licensee shall:
1. Gather as much information as possible about the child and the circumstances requiring placement;
  2. Record this information in the child's record, within two days of admission, as an emergency admission notation; and
  3. Keep an emergency admission record, which shall include at least the following information about the child:
    - a. Physical health,
    - b. Family history,
    - c. Educational background,
    - d. Legal status, and
    - e. A statement explaining the need for care.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7439. Information and Services Provided to the Placing Agency or Person**

- A.** No later than the date of a child's admission, a licensee shall provide information about the following subjects to the placing agency or person.
1. The licensee's statement of purpose and program description prescribed in R6-5-7423(A) and (B);
  2. Daily routines at the facility where the child is or will be placed;
  3. The behavior management policies and procedures prescribed in R6-5-7456;
  4. Services and treatment strategies provided or used at the facility;
  5. The visitation and communications policy prescribed by R6-5-7448;
  6. The education program or method for providing a child with education;
  7. Any religious practices observed by the licensee or religious observances required of children.
- B.** The licensee may provide the information in summary form or orally, but shall:
1. Convey the information in a language or form that the placing agency or person can understand;
  2. Advise the placing agency or person that the licensee will provide a copy of the licensee's policies or procedures, upon request.
  3. Provide the name and telephone number of a staff person that the placing agency or person may contact to obtain information about the program, facility, or child.
- C.** The licensee shall provide the placing agency or person with a copy of the licensee's grievance procedures required by R6-5-7429 and the statement of client rights required by R6-5-7423(C).
- D.** The licensee shall obtain the dated signature of the placing agency or person indicating receipt of the information listed in subsections (A) through (C).
- E.** Before obtaining the signature of a child's parent or guardian on a contract, consent, or release, the licensee shall explain the contents of the documents.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7440. Orientation Process for a Child In Care**

- A.** A licensee shall provide a child admitted into care with the orientation described in this Section in a language and manner that the child can understand and to the extent developmentally appropriate to the child.
- B.** During the first full day of a child's placement, a licensee shall:
  - 1. Explain the facility's emergency procedures,
  - 2. Show the child where emergency exits are located,
  - 3. Take the child on a tour of the facility, and
  - 4. Introduce the child to staff and other residents.
- C.** During the first week following a child's admission and as part of each child's orientation, a licensee shall:
  - 1. Familiarize the child with the licensee's program;
  - 2. Explain the licensee's expectations and requirements for behavior;
  - 3. Explain the criteria for successful participation in and completion of or emancipation from the program;
  - 4. Make available a copy of the behavioral rules prescribed by R6-5-7456(A)(3)(a), (b), (c), (d), and (h);
  - 5. Make available a copy of the visitation and communication policy prescribed by R6-5-7448; and
  - 6. Describe and, upon request, make available a copy of the grievance procedures prescribed by R6-5-7429 and the statement of client rights prescribed by R6-5-7423(E).
- D.** The licensee shall document the orientation and other information given to a child in the child's case record.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7441. Child's Service Plan: Preparation; Review; Planning Participants**

- A.** Service Plan Contents: A child in care shall have a personalized service plan tailored to the child's unique background, needs, strengths, weaknesses, and problems. The plan shall include at least the following information:
  - 1. A description of services the child is to receive while in care, including services to ready the child for discharge or emancipation from the program;
  - 2. Goals and objectives for the child;
  - 3. Timelines for achieving each goal and objective;
  - 4. Recommendations for any after-care;
  - 5. Identification of persons invited to participate in service planning;
  - 6. The names and, if available, signatures of the persons who participated in service planning;
  - 7. Identification of persons responsible for implementing the service plan, with an explanation of each person's role; and
- B.** Timing for Plan Development and Review:
  - 1. If a child has an existing service plan at the time of admission, the licensee shall:
    - a. Review the plan before or at the time of the child's admission, and
    - b. Assess the existing plan and make any necessary changes to conform to the requirements of this Section.
  - 2. If a child does not have a service plan at the time of admission, the licensee shall initiate service planning at the time of admission.
  - 3. Within seven days of a child's admission, a licensee shall document all interim planning efforts identifying the child's needs and initial plans for service.

- 4. No later than 30 days after the child's admission to a facility, the licensee shall complete the child's initial service plan and any initial modifications to an existing plan.
- C.** Plan Review: The licensee shall review and update a child's service plan at least every 90 days following completion of the child's service plan described in subsection (B)(4).
- D.** Planning Participants:
  - 1. The licensee shall invite, or delegate the responsibility for inviting, at least the following persons to participate in development of the service plan and periodic review:
    - a. A representative of the facility;
    - b. A representative of the placing agency, if applicable;
    - c. The child, if the child's presence is developmentally appropriate; and
    - d. The child's parent or guardian.
  - 2. At least one participant on the service team shall have the qualifications listed in R6-5-7432(B)(1) or (2).
- E.** Methods of Participation: The licensee shall allow service team members to participate in service planning through the following methods:
  - 1. Attendance at a planning meeting,
  - 2. Submission of a written report or documentation,
  - 3. Review and approval of the plan through signing and dating, or
  - 4. Audio or audio-visual teleconference.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7442. Discharge; Discharge Summary**

- A.** Policy and Procedure: A licensee shall have written policy and procedures for planned and unplanned discharges of children.
  - 1. Before a child's planned discharge, the licensee shall explain the discharge plan to the child and help the child understand the plan.
  - 2. The licensee shall also explain the discharge plan to the person removing the child.
  - 3. Before discharging a child to another out-of-home placement, the licensee shall make a reasonable effort to:
    - a. Arrange for the service team to meet or communicate with a representative from the new placement to share information about the child; and
    - b. Arrange for the child to visit the new placement.
- B.** Discharge Summary: Within 15 days of the date a child is discharged, the licensee shall complete a written discharge summary which shall include the following information:
  - 1. The name, address, telephone number, and relationship of the person to whom the child was discharged;
  - 2. The planned and actual discharge dates;
  - 3. A summary of the contacts between the licensee and the facility or person to whom the child was discharged about the child's pending discharge;
  - 4. A summary of services provided during care;
  - 5. A list of medication provided during care, with a summary of the reasons for prescribing the medication and any outcomes of the medication;
  - 6. A summary of progress toward service plan goals;
  - 7. An assessment of the child's unmet needs and alternative services which might meet those needs;
  - 8. Any after-care plan and identification of any person or agency responsible for follow-up services and after-care; and
  - 9. For an unplanned discharge, a description of the circumstances surrounding the unplanned discharge, including the licensee's actions.



- C. Notice of Unplanned Discharge: When a child's placing agency or person has not participated in the decision to discharge the child, the licensee shall notify the placing agency or person within one hour of discharge, or document attempts at notification.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7443. Personal Care of Children

- A. A licensee shall provide children in care with:
1. Developmentally appropriate supervision, assistance, and instruction in, good habits of personal care and hygiene and culturally appropriate grooming;
  2. Necessary toiletry items; and
  3. The opportunity to have a daily shower or tub bath in private, as developmentally appropriate, or as otherwise prescribed in program policy.
- B. A licensee shall not allow community use of grooming and hygiene articles such as towels, toothbrushes, soap, hairbrushes, and deodorants.
- C. If a licensee restricts personal care or grooming practices, the licensee shall have a policy describing the restrictions and the reasons for the restrictions.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7444. Children's Clothing and Personal Belongings

- A. A child may bring clothing and personal belongings to the facility and acquire belongings while in care, in accordance with the child's service plan and the facility's policy.
- B. If a licensee limits a child's right to have, wear, or display certain clothes or personal belongings, the licensee shall:
1. Have a written policy explaining the limitations and the reasons for the limitations; and
  2. Explain the limitations to the child in a form and manner that the child can understand.
- C. When a child is admitted, the licensee shall inventory the child's clothing and personal belongings; the licensee shall provide a copy of the inventory to the placing agency or person and keep a copy in the child's file.
- D. The licensee shall either store any restricted possessions or return the possessions to the child's placing agency or person.
- E. The licensee shall ensure that each child has a personal supply of clean and seasonable clothing as required for health, comfort, and physical well-being and as appropriate to the child's age, gender, size, and individual needs.
- F. The licensee shall allow a child to help select his or her own clothing when developmentally appropriate and allowed by programmatic requirements.
- G. The licensee shall have a policy governing retention, return, and disposal of the clothes and personal belongings of a child who has had an unplanned discharge. At the time of a child's planned discharge, the licensee shall allow the child to take clothing and personal belongings.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7445. Children's Money; Restitution

The licensee shall provide opportunities for children to develop a sense of the value of money through allowances, earnings, spending, giving, and saving. Any practices regarding children's money shall comply with this Section.

1. The licensee shall have a written policy regarding allowances.
2. The licensee shall treat a child's money as that child's personal property.
3. The licensee may limit the amount of money to which a child may have access when the limitations are:
  - a. In the child's best interest and explained in the child's service plan; or
  - b. In accordance with the facility's program description.
4. The licensee shall not deduct sums from a child's allowance as restitution for damages caused by the child unless:
  - a. The licensee has discussed restitution with the child; and
  - b. The deduction is:
    - i. Reasonable in amount,
    - ii. Consistent with the child's ability to pay,
    - iii. In accordance with the licensee's policy, and
    - iv. Explained in the child's service plan.
5. The licensee shall maintain individual accounting records for the money of each child.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7446. Nutrition, Menus, and Food Service

- A. A licensee shall have a written, dated menu of planned meals. The menu shall be available at the facility at least one week before meals are served. The licensee shall post the weekly menu in the dining area or in a location where children may review it. The licensee shall keep a copy of the menu and any menu substitutions on file for one year.
- B. The licensee shall prepare and serve meals in compliance with the written, dated menus.
- C. A registered nutritionist or dietitian shall either prepare or approve the licensee's menus. The licensee shall maintain a record of any approvals for one year, and keep the record in a central location at the agency or facility.
- D. A licensee shall develop and follow a specialized menu for a child with special nutritional needs. The licensee shall make special menus available to nutritional staff, but shall not post special menus in an area that is readily seen by other children in care.
- E. Menus shall reflect the religious, ethnic, and cultural differences of children in care.
- F. When developmentally appropriate, a licensee shall allow children to make menu suggestions.
- G. A licensee shall provide each child with at least three meals daily, with no more than 14 hours between the evening and morning meals. Between meal snacks shall not replace regular meals.
- H. A licensee shall provide meal portions that are consistent with each child's caloric needs.
- I. A licensee shall serve children meals that are substantially the same as those served to staff unless special dietary needs require differences in diet.
- J. A licensee shall allow children to eat at a reasonable rate; unless otherwise prescribed in agency policy, staff shall encourage social interaction and conversation during meals.
- K. A licensee shall have potable water available at all times.
- L. Staff shall directly supervise children involved in food preparation.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended

by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### **R6-5-7447. Sleeping Arrangements**

A licensee shall comply with the sleeping arrangement provisions in this Section.

1. A child age 6 or older shall not share a bedroom with a child of the opposite gender.
2. A child shall not share a bedroom with an adult unless one of the conditions listed in this subsection is met.
  - a. The child is younger than age 3.
  - b. The child's service plan contains specific reasons and authorization from the placing agency or person for a shared bedroom.
  - c. The child has a temporary need for special adult care during sleeping hours and the need is documented in the child's service plan.
  - d. The child has regularly shared a bedroom with another child in the licensee's care; the other child has reached age 18; and the placing agency and licensee agree that continuing the shared arrangement is in the best interests of both the child and the adult.
  - e. The child is sharing a room with his or her parent.
  - f. The sleeping area at the facility is a barracks that has been approved as described in R6-5-7461(B) and R6-5-7462(B), and a paid staff member sleeps in the same room to supervise the children in care.
3. Only children age 8 or older may sleep on the upper bed of a bunk bed.
4. If a child has a documented record of behavior that poses a risk to other children in care, the licensee, in consultation with the placing agency or person, shall develop special sleeping arrangements for that child, to minimize the risk of harm to other children. The licensee shall document the arrangements in the child's service plan.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by emergency rulemaking at 12 A.A.R. 2233, effective June 1, 2006 for 180 days (Supp. 06-2). Emergency renewed at 12 A.A.R. 4732, effective November 28, 2006 for 180 days (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 2049, effective May 21, 2007 (Supp. 07-2).

#### **R6-5-7448. Visitation, Outings, Mail, and Telephones**

- A. The licensee shall have a written policy and procedures regarding visitation, mail, telephone calls, and other forms of communication between children and family, friends, and other persons. The policy and procedures shall conform to the requirements of this Section.
  1. The licensee shall allow a child reasonable privacy during a visit unless the child's service plan requires supervised visitation.
  2. A licensee shall have facility visiting hours which meet the needs of the children and their parents.
  3. A licensee shall not deny, monitor, or restrict a child's communication with the child's social worker, attorney, Court Appointed Special Advocate, guardian ad litem, or clergy. The licensee may establish a schedule and rules for communication to prohibit undue interference with programming.
  4. A licensee shall not deny, monitor, or restrict communications between a child and the child's parent, guardian, or friends except as prescribed:
    - a. By court order;

- b. In the child's service plan, which shall contain specific treatment reasons for the restriction which shall be time limited; or
  - c. In the facility's policy and statement of purpose required by R6-5-7423.
5. The licensee may require a child to open mail in the presence of staff in order to inspect the mail for contraband.
6. When a licensee is monitoring a communication as allowed in subsection (A)(4) above, the licensee shall tell the parties to the communication about the monitoring.
- B. The licensee shall have written policy and procedures to govern situations when a child temporarily leaves the facility on a visit or outing with a person other than a staff member. The procedures shall include:
  1. A method for recording the child's location, the duration of the activity, and the anticipated and actual time of the child's return;
  2. The name, address, and telephone number of the person responsible for the child while the child is absent from the facility; and
  3. A procedure for action if a child fails to return.
- C. Subsection (B) does not apply to regularly scheduled trips to school.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7449. Educational and Vocational Services; Work Assignments**

- A. The licensee shall have a written policy regarding its educational program or a plan for ensuring that each child attends an educational program in accordance with state and local laws.
- B. Within 10 local school days of a child's admission to a facility, the licensee shall arrange for the educational needs of the child. The arrangements shall:
  1. Meet the child's individual needs;
  2. Be consistent with the child's Individual Education Plan (I.E.P.) if applicable; and
  3. Comply with federal and state education laws.
- C. The licensee shall communicate with staff at an educational program in which a child in care is enrolled to discuss the child's progress. At a minimum, the licensee shall attend scheduled parent-teacher conferences.
- D. If a child's service plan provides for the child to receive vocational services, the licensee shall comply with the plan requirements.
- E. The licensee shall provide children in care with:
  1. Space for quiet study;
  2. Developmentally appropriate supervision and assistance with homework; and
  3. Access to necessary reference materials.
- F. The licensee may use work assignments to provide an instructional experience for children in care, but shall not use a child as an unpaid substitute for staff.
- G. A work assignment shall be developmentally appropriate for a child, and scheduled at a time that does not interfere with other routine activities such as school, homework, sleep, and meals.

#### **Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### **R6-5-7450. Recreation, Leisure, Cultural Activities, and Community Interaction**

- A. A licensee shall have a written plan for making a variety of cultural, religious, indoor and outdoor recreational and leisure opportunities available for children in care. The plan shall:

1. Reflect the interests and needs of the children in care, including an allotment of time for children to pursue individual interests, and time to address the special needs of the children in the living unit;
  2. Provide for use of community resources such as schools, museums, libraries, parks, recreational facilities, and places of worship; and
  3. Specify procedures for children's participation in community activities and use of community resources.
- B.** A licensee shall help children in care learn about the community in which the facility is located and use community resources, as developmentally appropriate.
- C.** A licensee shall arrange transportation and supervision so that children in care can attend community activities and maximize use of community resources.
- D.** The licensee shall make available recreational equipment that is suitable to the size, age, and developmental level of children in care.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7451. Religion, Culture, and Ethnic Heritage**

- A.** A licensee shall have a written description of:
1. Its religious orientation, if any;
  2. Any religious practices observed at a facility;
  3. Any restrictions on admission based on religion; and
  4. How the licensee provides opportunities for each child to participate in religious activities in accordance with the faith of the child or the child's parent or guardian.
- B.** A licensee's program and the service plans of children in care shall reflect consideration of and sensitivity to the racial, cultural, ethnic, and religious backgrounds of children in care.
- C.** A licensee may encourage children to participate in religious, cultural, and ethnic activities but shall not require children to participate unless otherwise provided in the licensee's statement of purpose and program description.
- D.** If a child asks to change religious affiliation while in care, the licensee shall obtain the written permission of the child's parent or guardian before assisting the child in making the change. A licensee is not required to obtain this permission if a child changes religious affiliation without the licensee's assistance.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7452. Medical and Health Care**

- A.** General health care.
1. A licensee shall have a written plan for meeting the preventive, routine, and emergency physical and mental health needs of children in care. The plan shall identify where and from whom children at a facility may obtain qualified health care, 24-hours per day, seven days per week.
  2. A licensee shall ensure that children in care receive:
    - a. Preventive health services, including routine medical examinations and dental cleanings and examinations; and
    - b. The following health services, if necessary:
      - i. Evaluation and diagnosis,
      - ii. Treatment, and
      - iii. Consultation.
  3. A licensee shall ensure that a child in care receives a developmentally appropriate explanation of any health

treatment the child receives, in a language and manner the child can understand.

4. A licensee shall not ignore a child's complaints of pain or illness and shall document persistent complaints and any actions taken in response to the complaints.

**B. Medical care.**

1. A licensee shall arrange for a physician, physician's assistant, or nurse practitioner to give a child a medical examination within one week of the child's admission unless:
  - a. A licensed medical practitioner examined the child within the 45 days preceding the child's admission; and
  - b. The licensee has a report of the examination as prescribed in R6-5-7438(E)(4)(a).
2. A licensee shall also arrange for a child in care to receive an annual medical exam from a physician, physician's assistant, or nurse practitioner.
3. The initial and annual medical examinations shall include:
  - a. Screening for communicable disease unless restricted by law;
  - b. Vision and hearing screening; and
  - c. For children who wish to participate in sports or physically strenuous activities such as backpacking, an evaluation of the child's capacity to participate.
4. A licensee shall obtain a report of the examination, and, if applicable, a statement signed by the medical practitioner conducting the examination, or the practitioner's designee, regarding the child's capacity, fitness, and clearance to participate in sports or physically strenuous activities.
5. After attempting to determine a child's immunization history, a licensee shall arrange for the child to receive any routine immunizations and booster shots within 30 days of admission.

**C. Dental care.**

1. A licensee shall arrange for each child to have a dental examination within 60 days of admission unless the licensee is provided the written results of a dental examination conducted within six months prior to admission.
2. A licensee shall arrange for each child age 3 and older to receive a dental examination every six months.
3. In cooperation with the placing agency or person, a licensee shall arrange for a child to receive any prescribed dental care.

**D. First aid.** A licensee shall equip the residence of each living unit with at least the following first aid supplies:

1. Adhesive strip bandages;
2. Sterile, individually wrapped gauze squares;
3. Roller gauze;
4. Adhesive tape;
5. Individually wrapped non-stick sterile pads;
6. A triangular bandage to be used for a sling;
7. Disposable latex gloves;
8. A pair of scissors;
9. A pair of tweezers; and
10. A cardiopulmonary resuscitation mouth guard or mouth shield.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7453. Medications**

- A.** A licensee shall have written policies and procedures governing medications. The policies and procedures shall specify:

1. The conditions under which medications can be prescribed and administered which shall be in accordance with any applicable laws;
  2. The qualifications of the persons allowed to administer medications;
  3. The qualifications of persons allowed to supervise self-administration of medication;
  4. How a facility will document the prescription and administration of medication, medication errors, and drug reactions; and
  5. How staff will notify a child's attending physician in cases of medication errors and drug reactions.
- B.** The licensee shall have a written medication schedule for each child who receives medication. The schedule shall include the following information:
1. Child's name;
  2. Name of the prescribing physician;
  3. Telephone number at which the prescribing physician can be reached in case of medical emergency;
  4. Reason for prescribing the medication;
  5. Date on which the medication was prescribed;
  6. Generic or commercial name of the medication;
  7. Dosage level and time of day when medication is to be administered, including any special administration instructions;
  8. The date, time, and dosage administered; and
  9. The signature of the person administering each dosage. If the medication is self-administered, the chart shall include the signature of the child and the person supervising the child's self-administration.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7454. Storage of Medications

A licensee shall store medications as prescribed in this Section.

1. Medications shall be kept in securely locked spaces that are not used for any other purpose and to which children do not have access.
2. All medications requiring refrigeration shall be stored separately from food items, in a locked container, in a refrigerator and under temperature ranges recommended by the manufacturer.
3. All prescription medication shall be kept in its original container which shall have a label with the following information:
  - a. Child's name;
  - b. Name of the medication;
  - c. Prescribing physician;
  - d. Date of purchase and, if known, expiration date; and
  - e. Directions for administering.
4. All over-the-counter medication shall be kept in its original container with the manufacturer's label.
5. At least once every 90 days, the licensee shall dispose of all:
  - a. Outdated medications;
  - b. Medications for children no longer at the facility; and
  - c. Medications specifically prescribed for an illness from which a child has recovered.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7455. Children's Medical and Dental Records

A licensee shall maintain health records for each child. The records shall include the information listed in this Section if available to the licensee.

1. The child's past medical history of:
  - a. Immunizations,
  - b. Serious illness or injuries,
  - c. Surgeries,
  - d. Known allergies, and
  - e. Adverse drug reactions.
2. Developmental history.
3. Medication history.
4. History of any alcohol or substance abuse and treatment.
5. Immunizations provided while in care.
6. Medications received while in care and a record of any medication errors.
7. Copies of consents for treatment or care.
8. Authorization to participate in sports or physically strenuous activities, if applicable.
9. Reports of vision and hearing screening and physical and dental examinations.
10. Record of any treatment provided for specific illness or medical emergencies, including the name and location of medical personnel who provided treatment.
11. The name of the person or agency bearing financial responsibility for the child's health care.
12. Documentation showing the licensee's efforts, consistent with the terms of the placing agreement, to obtain glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or any other health equipment recommended by a child's attending physician.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7456. Behavior Management

**A.** A licensee shall have written behavior management policies and procedures which shall:

1. Be developmentally appropriate for the children in care;
2. Be designed to encourage and support the development of self-control;
3. Describe the following:
  - a. Behavior expectations of children;
  - b. Consequences for violations of the licensee's policies and rules which shall be:
    - i. Reasonably related to the violation; and
    - ii. Administered without prolonged and unreasonable delay;
  - c. Physical restraint and restrictive behavior management techniques used by the licensee;
  - d. The kinds of behaviors warranting use of physical restraints or restrictive behavior management techniques;
  - e. The licensee's methods of documenting use of physical restraints or restrictive behavior management techniques;
  - f. Behavior management techniques which require supervisory authorization or written documentation before being used;
  - g. The licensee's process for supervisory review to evaluate whether staff properly applied the restraints or techniques in a particular case; and
  - h. Behavior management techniques prohibited by the licensee.

- B.** The licensee's staff are responsible for control and discipline of children in care. The licensee shall not allow children to discipline other children.
- C.** The licensee shall not threaten a child or allow any child to be subjected to maltreatment, abuse, neglect, or cruel, unusual, or corporal punishment, including the following practices:
1. Spanking or paddling a child;
  2. All forms of physical violence inflicted in any manner upon the body;
  3. Verbal abuse, ridicule, or humiliation;
  4. Deprivation of shelter, bedding, food, water, clothing, sufficient sleep, or opportunity for toileting;
  5. Force-feeding, except as prescribed by a licensed medical practitioner;
  6. Placing a child in seclusion;
  7. Requiring a child to take a painfully uncomfortable position, such as squatting or bending for extended periods of time; and
  8. Administration of prescribed medication or medication dosage without specific physician authorization.
- D.** To determine whether a licensee has violated subsection (C)(7), the Licensing Authority shall consider all the circumstances at the time of the action, including the following:
1. The child's physical condition;
  2. Whether the child was taking any medications that may have affected the child's ability to perform the action, such as psychotropic medications or antibiotics;
  3. The climatic conditions under which the child was performing the action, such as intense heat or cold, rain, or snow;
  4. The level of force, if any, the licensee used to require the child to perform the activity and whether any use of force resulted in injury to the child; and
  5. Whether the activity was consistent with the licensee's program description and procedures.
- E.** The behavior management practices listed in this subsection are restricted. A licensee may use a restricted practice only when the licensee satisfies the conditions listed in subsection (F) and any additional conditions listed in this subsection.
1. Required physical exercises such as running laps or performing push-ups, and assignment of physically strenuous activities, except:
    - a. As expressly prescribed in a child's service plan and as part of a regular physical conditioning program, or as part of a work experience that meets the requirements of R6-5-7449(F) and (G);
    - b. With documented clearance by a physician who is knowledgeable about the physical activities in which the child will participate; and
    - c. Within sight supervision of staff.
  2. Disciplinary measures taken against a group because of the individual behavior of a member of the group.
  3. Denial of visitation or communication with significant persons outside the facility solely as a consequence for inappropriate behavior.
  4. Use of a mechanical restraint unless:
    - a. The licensee's policy lists the qualifications of staff allowed to use the restraint;
    - b. Staff allowed to use the restraint have received training in the proper use of the restraint;
    - c. The licensee has documentation of the restraint training in the personnel file of the staff member;
    - d. Use of the restraint is authorized in a child's individual service plan; and
    - e. Staff have tried less restrictive measures which have failed.
  5. Physical restraint, except:
    - a. When the child needs restraint to prevent danger to the child or danger to another; and
    - b. After staff have tried less restrictive measures which have failed.
- F.** A licensee may use a restricted practice only when the practice and the circumstances warranting its use are:
1. Consistent with the licensee's program description and purpose;
  2. Described in the licensee's behavior management policy;
  3. Used as prescribed in this Section; and
  4. Not otherwise prohibited by these rules.
- G.** If a licensee cannot use a specific physical restraint or behavior management technique on a particular child, the child's service plan shall describe the restriction.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7457. Body Searches**

If a licensee permits a body search of children in care, the licensee shall have a written policy describing the conditions warranting a body search and the procedures for conducting the search.

1. When searching a child, staff shall use the minimum amount of physical contact required to determine if the child has contraband.
2. The licensee shall not conduct an internal body cavity search on a child.
3. The licensee shall not use any instruments to search a child.
4. The licensee shall not conduct a strip search beyond underwear.
5. Unless a licensed medical practitioner is searching a child, a person of the same gender as the child shall do the search.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7458. Buildings; Grounds; and Water Supply**

**A.** Structures and Improvements: A licensee shall maintain a facility's structures and improvements in good repair, free from danger to health or safety, and as prescribed in this subsection. The licensee shall:

1. Repair doors, windows and other building features that protect a building from weather damage or pest infestation, within 48 hours of finding that the building part is in disrepair;
2. Document efforts to make or obtain repairs if repairs cannot be completed in 48 hours;
3. Keep buildings free of vermin infestation;
4. Keep exits free of obstruction or impediments to immediate use; and
5. Have barriers appropriate to the developmental needs of children in care to prevent falls from porches and elevated areas, walkways, and stairs.

**B.** Exits: The licensee shall equip each building used by children with exits as prescribed in this subsection.

1. Each building shall have at least two exterior means of egress on each floor.
2. Exits above ground level shall have an outside fire escape or a fire-resistant stairwell that has been approved by the state or a local fire inspector.
3. Exit doors shall have only locks that allow the doors to be opened from the inside without use of a key or knowledge of special or restrictive operating procedures.

- C. Grounds:** A licensee shall maintain a facility's grounds in good condition, free from danger to health or safety, and as prescribed in this subsection. The licensee shall:
1. Store garbage and rubbish in non-combustible, covered containers, separate from play areas;
  2. Remove refuse and recyclables from the building at least once a day;
  3. Remove refuse and recyclables from the facility grounds at least once a week.
  4. Use safeguarding measures to separate children in care from potentially hazardous areas on or near the facility grounds;
  5. Maintain fences and other barriers in good repair; and
  6. Locate and install playground or recreational equipment at the facility in accordance with the manufacturer's instructions and recommendations, and maintain the equipment in good repair and in accordance with the manufacturer's instructions and recommendations.
- D. Water supply:** If a facility's water is from any source other than an approved public water supply, the licensee shall obtain a written water analysis report, showing that the water is potable and meets the applicable requirements for safe drinking water in 18 A.A.C. 4. The licensee shall get the analysis and report from a laboratory certified by the Department of Health Services before initial operation and each annual renewal.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7459. Building Interior

- A.** A licensee shall ensure that a facility's physical plant can structurally accommodate the physical and program needs of all children in care according to the standards prescribed in this Article and the licensee's own program description.
- B.** The licensee shall keep a facility clean and sanitary.
- C.** The licensee shall have and maintain furnishings as prescribed in this subsection.
1. All living areas shall have furniture designed to suit the size and capabilities of the children in care.
  2. A licensee shall replace or repair broken, dilapidated, or defective furnishings and equipment.
  3. A licensee shall have mirrors in the facility to permit children in care to examine their personal appearance.
  4. A licensee shall secure the mirrors to walls at heights convenient to the children in care.
- D.** A licensee shall ensure that all spaces used by children have outside ventilation from a window, louvers, air conditioning, or other mechanical equipment. A window or door used for outside ventilation shall have a screen.
- E.** A licensee shall maintain a facility's residential environment at temperatures that do not:
1. Exceed 85° F,
  2. Fall below 65° F during daylight hours, or
  3. Fall below 60° F during sleeping hours.
- F.** A licensee shall use thermometers scaled at no more than 2 degree increments to determine temperature.
- G.** A licensee shall not use free-standing stoves that use wood, sawdust, coal, or pellets, or portable heaters as the primary source of heat for a residential area.
- H.** A licensee shall safeguard hot water radiators or steam radiators and pipes or any other heating device capable of causing a burn.
- I.** A licensee shall maintain and use all electrical equipment, wiring, cords, switches, sockets, and outlets in good working order, under safe conditions, in accordance with the manufacturer's recommendations, and as prescribed in this subsection.
1. Electrical outlets in areas accessible to children younger than 6 shall have safety plugs or plates.
  2. The licensee shall not:
    - a. Use extension cords exceeding 7 feet in length,
    - b. Allow extension cords to be connected together to extend their length, or
    - c. Allow extension cords to run across or through a room or to pass from one room into another.
- J.** A licensee shall provide illumination for a facility's rooms, corridors, and stairways so that children and personnel can perform activities and tasks safely and without eye strain.
- K.** A licensee shall illuminate a facility's outdoor walkways and premises so that children and personnel using areas at night can perform activities and tasks safely.
- L.** A licensee housing more than 10 children shall install and maintain emergency lighting systems in children's living quarters.
1. In this subsection, "emergency lighting system" means a battery or generator operated system that:
    - a. Automatically activates if electrical power fails; and
    - b. Provides sufficient light for persons to exit safely in an emergency.
  2. If a licensee provides written documentation showing that a facility's emergency lighting system meets applicable city or county building codes for such systems, the system is presumed adequate to satisfy this subsection.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### R6-5-7460. Kitchens; Food Preparation; and Dining Areas

- A.** A licensee shall maintain a facility's kitchen and dining areas, and shall handle food, as prescribed in this Section.
- B.** The licensee shall:
1. Equip a facility kitchen used for meal preparation with the fixtures, appliances, equipment, tools, and utensils ("kitchen equipment") necessary for the safe and sanitary preparation, storage, service, and cleanup of food;
  2. Keep kitchen equipment clean and in good working order;
  3. Not use defective, damaged, tin, or aluminum dishes or utensils;
  4. Not use disposable dinnerware or flatware on a daily basis unless the licensee provides evidence, at the time of initial licensure and at each renewal, that disposable items are necessary to protect the health or safety of children in care;
  5. Maintain the temperature of potentially hazardous food at or below 45° F or above 140° F, except when the food is being handled or served;
  6. Cover all food that is to be transported outside of the kitchen and dining areas of the facility; and
  7. Not use home canned foods.
- C.** If a facility has more than 20 children, the licensee shall comply with the requirements in A.A.C. R9-8-132 through R9-8-137.
- D.** If a facility has less than 21 children, the licensee shall comply with A.A.C. R9-8-113, R9-8-115, R9-8-116, R9-8-117, and R9-8-121 through R9-8-127, and shall have:
1. One refrigerator for each 10 children at a facility; and
  2. A three-compartment sink; or
  3. A National Sanitation Foundation (NSF)-listed dishwasher; or
  4. A domestic dishwasher with a sanitizer cycle.

- E. A facility shall have clean dining areas and tables which allow children, staff, and guests to eat together.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7461. Sleeping Areas and Furnishings

- A. A licensee shall provide each child in care with a designated area for rest and sleep as prescribed in this Section.
1. A licensee shall not use mobile dwellings, trailers, or vehicles as sleeping quarters.
  2. The licensee shall provide children in care with bedroom space that:
    - a. Has a direct source of natural light;
    - b. Has a window that:
      - i. Opens to the outside without a grill or other impediment to immediate, emergency exit;
      - ii. Can be easily opened from the inside;
      - iii. Measures at least 22 inches on each side; and
      - iv. Has a bottom sill that is no more than 48 inches from the floor; and
    - c. Is at least:
      - i. A 74 square foot floor area for a single occupant;
      - ii. A 50 square foot floor area for each occupant in a multiple sleeping area; or
      - iii. A 40 square foot floor area for each crib.
  3. The licensee shall provide each child in care with a bed that:
    - a. Is proportional to the child's height,
    - b. Is at least 30 inches wide,
    - c. Has a solidly constructed bed frame, and
    - d. Has safety railings if developmentally appropriate for the child using the bed.
  4. If a licensee uses a bunk bed, the bed shall be limited to a double bunk, and shall have sufficient head room to allow the upper occupant to sit up.
  5. A licensee shall use only cribs that have:
    - a. Bars or slats no more than 2 3/8 inches apart;
    - b. A mattress that fits snugly into the crib frame so that there is no space between the mattress and frame; and
    - c. No openings through which a child could place his or her head.
  6. A licensee shall provide sheets, pillow cases, and blankets for each child and shall maintain bedding in good repair, without tears or stains.
    - a. The licensee shall ensure that sheets and pillowcases are washed at least weekly and more frequently if necessary.
    - b. The licensee shall use water resistant bedding when necessary.
  7. A licensee shall provide each child with a dresser or other storage space adequate to contain the child's belongings and a designated space for hanging clothing in or near the child's bedroom.
- B. The square footage area prescribed in subsection (A)(2)(c) is presumed adequate. If a licensee operates a barracks type facility that does not meet these square footage requirements, the licensee shall present a written plan showing how the licensee's square footage provides enough space for sleeping, rest, study, recreation, ingress, and egress in an emergency. The Licensing Authority shall review and approve the plan if it is consistent with the licensee's described program and does not pose a risk of harm to children in care.
- C. A licensee shall not have bedroom doors that can be locked.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 4032, effective September 29, 2000 (Supp. 00-3).

#### R6-5-7462. Bathrooms

- A. A licensee shall maintain bathrooms and bathroom fixtures in good operating and sanitary condition, and as prescribed in this Section.
1. The licensee shall have facility bathrooms equipped with:
    - a. At least one wash basin and one toilet for every six children in care;
    - b. At least one bathtub or shower for every eight children in care;
    - c. Cold and hot running water, with enough hot water to allow each child a daily bath or shower;
    - d. Bathtubs and showers that are slip-resistant; and
    - e. Toilets and bathtubs or showers which allow a child to have privacy, as developmentally appropriate, or as otherwise prescribed in written program policy.
  2. The licensee shall not permit children age 5 or older who are of different genders to share a bathroom at the same time.
  3. The licensee shall equip bathrooms to facilitate maximum self-help by children through one or more of the following methods:
    - a. Providing children with step-stools to reach a sink,
    - b. Providing smaller sized bathroom fixtures,
    - c. Providing training toilets,
    - d. Placing towel racks and dispensers at lower heights, or
    - e. Other similar or comparable methods.
  4. A licensee shall have bathrooms large enough to permit staff to help children who require it.
  5. A licensee shall provide bathrooms with sufficient toilet paper, towels, soap, and other items required to maintain good personal hygiene, or shall provide children with personal supplies of these items.
- B. The bathroom fixture requirements prescribed in subsections (A)(1)(a) and (b) are presumed adequate. If a licensee operates a barracks type facility which does not meet these requirements, the licensee shall present a written plan showing how the licensee's bathroom facilities permit children in care to maintain adequate hygiene. The Licensing Authority shall review and approve the plan if it is consistent with the licensee's described program and does not pose a risk of harm to children in care.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7463. Other Facility Space; Staff Quarters

- A. A licensee shall ensure that a facility has:
1. A place other than children's living areas to serve as an administrative office for records, secretarial work, and bookkeeping; and
  2. Space for private discussions and counseling sessions between individual children and staff.
- B. If a licensee has staff who reside at the facility, the licensee shall provide those staff with living and sleeping space that is separate from children's areas, including a separate bathroom. The licensee shall provide the children of these staff, who also reside at the facility, with a residential environment that meets the requirements of this Article for children in care.
- C. A licensee operating a barracks type facility that has been approved as described in R6-5-7461(B) and R6-5-7462(B) is

not required to provide separate space as described in subsection (B).

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7464. Fire, Emergency, and Fire Prevention

- A.** Emergency Procedures: A licensee shall have written procedures for staff and children to follow in case of emergency or disaster (natural, medical, or human-caused). The procedures shall include the following:
1. Provisions for the evacuation of buildings, including the evacuation of children with physical disabilities;
  2. Assignment of staff to specific tasks and responsibilities;
  3. Instructions on the use of alarm systems and signals;
  4. Specification of evacuation routes and procedures, with clearly marked diagrams; and
  5. Notification as prescribed in R6-5-7434.
- B.** Emergency Practices and Drills: A licensee shall prepare staff and children to respond to emergencies as prescribed in this subsection.
1. The licensee shall train all staff to perform assigned tasks during emergencies, including the location and use of fire fighting equipment.
  2. The licensee shall train staff and children to report fires and other emergencies in accordance with written emergency procedures.
  3. The licensee shall post evacuation procedures in conspicuous locations throughout all buildings.
  4. The licensee shall train staff and children in evacuation procedures and conduct emergency drills at least once a month as prescribed in this subsection.
    - a. Practice drills shall include actual evacuation of children to safe areas.
    - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
    - c. All persons in the building at the time of a drill shall participate in the drill.
  5. A licensee shall maintain a record of all emergency drills. The record shall include:
    - a. Date and time of drill,
    - b. Total evacuation time,
    - c. Exits used,
    - d. Problems noted, and
    - e. Measures taken to ensure that children understand the purpose of a drill and their responsibilities during a drill.
- C.** Fire Prevention and Control: A licensee shall have and maintain fire prevention and safety equipment as prescribed in this subsection.
1. In a facility's residential environment, the licensee shall install and maintain smoke detectors according to the manufacturer's instructions, recommendations, and test specifications and shall maintain smoke detectors in good working order. Each smoke detector shall have a signal to indicate that batteries are low or are not working properly.
  2. The licensee shall put a smoke detector in each separate sleeping area.
  3. The licensee shall clean and test smoke detectors at least every three months. The licensee shall keep a written record of the cleaning and testing at the facility.
  4. A licensee shall install and maintain portable fire extinguishers appropriate in number and size to the area to be protected.

5. A licensee shall have a qualified person inspect and, if necessary, recharge fire extinguishers at least once a year and immediately after use.
6. A licensee shall:
  - a. Document the dates that a fire extinguisher is charged and the person or agency responsible for charging it; and
  - b. Attach the documentation to the extinguisher.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7465. General Safety

- A.** Ground Floor: A licensee shall house non-ambulatory children and children younger than 6 only on the ground floor.
- B.** Licensees that provide services to young adults:
1. A licensee that provides services to young adults shall provide adequate safety information and individualized instruction to promote the safe use of a substance or item that is:
    - a. Required to be safeguarded under this Section; and
    - b. Necessary for the young adult's self-sufficiency, such as laundry and cleaning supplies, tools, and kitchen knives.
  2. A licensee that provides services to young adults placed in care with their own children shall safeguard substances and items in a manner appropriate to protect the youngest child in residence.
- C.** Dangerous objects: A licensee shall safeguard all potentially dangerous objects, including:
1. Firearms and ammunition;
  2. Recreation and hunting equipment;
  3. Household and automotive tools;
  4. Sharp objects such as knives, glass objects, and pieces of metal;
  5. Fireplace tools, matches, and other types of lighters;
  6. Machinery;
  7. Electrical wires, boxes, and outlets;
  8. Gas appliances;
  9. Chemicals, cleaners, and toxic or flammable substances;
  10. Swimming pools, ponds, spas, and other natural or artificial bodies of water; and
  11. Motorized vehicles.
- D.** Water Temperature: A licensee shall maintain water that is accessible to children for personal use at a temperature at or below 120° F.
- E.** Gas appliances:
1. A licensee shall have a licensed and bonded heating and cooling technician annually inspect all gas-fired devices at a facility. The licensee shall get a written report of the inspection for submission to the Licensing Authority at the time of license renewal.
  2. A licensee shall equip all gas-fired devices with an automatic pilot gas shut-off control.
  3. A licensee shall remove the valves from unused gas outlets and cap the disconnected gas line with a standard pipe cap.
  4. A licensee shall not use unvented water heaters.
  5. A licensee shall not use kerosene or gasoline for lighting, cooking, or heating.
  6. If a licensee uses a natural or propane gas burning device inside a facility, the licensee shall:
    - a. Install, test, and check carbon monoxide monitoring equipment in a facility's residential environment according to the manufacturer's instructions;



- b. Maintain the monitoring equipment in good working condition; and
  - c. At the facility, keep a copy of the manufacturer's instructions, and, for one year, a record of the tests.
- F. Finishes and surfaces:**
  - 1. A licensee shall not surface walls or ceilings with materials that contain lead except as allowed by law for protection from wood, pellet, or peat burning stoves.
  - 2. A licensee shall not have any walls, equipment, furnishings, toys, or decorations surfaced with lead paint.
  - 3. A licensee that accepts children who are under age 6, developmentally disabled, or severely emotionally disturbed, shall maintain the facility free of lead paint hazards, including permanent removal of any paint that a child may ingest.
- G. Toxic and Flammable Substances:**
  - 1. A licensee shall ensure that any poisons and toxic or flammable substances used at a facility are used in a manner and under conditions that will not contaminate food or be hazardous to children.
  - 2. A licensee shall ensure that containers of poisons and toxic or flammable substances are prominently and distinctly marked or labeled for easy identification of contents.
  - 3. A licensee may burn trash only when:
    - a. Local authorities and ordinances allow burning;
    - b. The fire is at least 50 feet from any building used for children's residences; and
    - c. An adult supervises any child involved in the burning.
  - 4. A licensee shall not use charcoal or gas grills indoors or on covered porches.
- H. Firearms, Weapons, and Recreational and Hunting Equipment:**
  - 1. A licensee shall ban firearms, explosives, and ammunition from a facility and grounds, except a licensee may allow the following:
    - a. Firearms maintained and used exclusively by trained security guards; and
    - b. Non-functional, permanently disabled firearms used for ceremonial purposes if such use is documented in the licensee's policy and procedures.
  - 2. A licensee shall keep bows and arrows, knives, and other potentially hazardous hunting and recreational equipment in locked secure storage that is not accessible to children.
- I. Tools and Equipment:** A licensee shall maintain lawn and garden equipment and maintenance tools and equipment safe and in good repair, and shall allow children to use them only under the supervision of staff. Depending on the developmental level of the child, the supervision need not be direct supervision.
- J. Telephone service:**
  - 1. A licensee shall equip each living unit that does not house young adults with 24-hour telephone service or an intercom system linked to an outside telephone service, or
  - 2. A licensee that provides services to young adults shall provide a device in each living unit that allows a young adult to immediately summon on-duty staff or emergency services. In addition, the licensee shall provide a telephone onsite. The licensee shall provide written and verbal information to each young adult explaining how to summon assistance in the event of an emergency.
  - 3. A licensee shall conspicuously post, adjacent to the telephone:
    - a. The address and telephone number of the facility; and
    - b. Emergency telephone numbers, including fire, police, physician, poison control, Child Protective Services, and ambulance.
- K. Smoking:**
  - 1. A licensee shall not expose a child in care to tobacco products or smoke.
  - 2. A licensee shall not allow any person to use tobacco products inside buildings.
  - 3. A licensee shall not allow a child in care to use or possess tobacco products.
- L. Animals:**
  - 1. The licensee shall not maintain, at a facility, any animal that poses a danger to children in care.
  - 2. The licensee shall have written evidence that dogs kept at a facility have current vaccinations against rabies.

**Historical Note**

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Amended by emergency rulemaking at 12 A.A.R. 2233, effective June 1, 2006 for 180 days (Supp. 06-2). Emergency renewed at 12 A.A.R. 4732, effective November 28, 2006 for 180 days (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 2049, effective May 21, 2007 (Supp. 07-2).

**R6-5-7466. Swimming Areas**

- A.** A licensee shall fence an outdoor swimming pool to separate it from all buildings, with a fence that:
  - 1. Is at least 5 feet high, as measured on the exterior side of the fence; and
  - 2. Has a self-closing, self-latching gate that opens away from the swimming pool. The licensee shall maintain the latching equipment in good working order.
- B.** If the licensee accepts children younger than 6, the fence shall:
  - 1. Have no opening through which a spherical object of 4 inches in diameter can pass;
  - 2. Have horizontal components which:
    - a. Are spaced at least 45 inches apart, measured vertically; or
    - b. Do not have any openings greater than 1 3/4 inches, measured horizontally; or
  - 3. Not have any openings for handholds or footholds, or any horizontal components, that can be used to climb the fence from the outside.
- C.** Subsections (A) and (B) do not apply to outdoor swimming pools that are entirely surrounded by permanent walls or buildings with doors that can be locked, so long as the walls or building meet the requirements for fencing set forth in subsections (A) and (B).
- D.** A licensee shall lock all entrances to a swimming pool when the pool is not in use.
- E.** A licensee shall maintain the following life-saving equipment in good repair and readily accessible to the swimming pool:
  - 1. A ring buoy with 1/2-inch width rope that is at least half the distance of the pool measured at its longest point, plus 10 feet; and
  - 2. A shepherd's crook attached to its own pole.
- F.** At least one of the staff members supervising children in a pool, shall remain out of the water.
- G.** When a pool is in use, a licensee shall keep a daily log to record water quality test results of an on-grounds swimming pool and shall maintain the pool free from contamination in accordance with 9 A.A.C. 8, Article 8.
- H.** The licensee shall, when chlorination is used, maintain a free chlorine residual of between 0.1 and 4.0 parts per million, and a pH range of 7.0 to 8.0. A licensee may add dry or liquid

chemical sources directly to pool water only when enough time exists for dispersal before use.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7467. Access; Transportation; Outings

##### A. Access.

1. A facility shall be accessible by public or private motor vehicle.
2. If the facility cannot be accessed by a road that is passable by motor vehicle 12 months of the year the licensee shall have alternative transportation arrangements to provide access to the facility.

##### B. Transportation.

1. A licensee shall provide, arrange, or negotiate responsibility for arranging, with the placing agency or person, transportation required to implement a child's service plan.
2. A licensee shall provide staff supervision in any vehicle the licensee uses to transport a child in care.

##### C. Outings.

1. For every facility sponsored outing which is not part of the daily routine, such as a recreational trip of four hours or more, or an outing where emergency medical services cannot respond within 12 minutes, a licensee shall maintain, at the facility, a record of the following information:
  - a. A list of children participating in the outing;
  - b. Departure time and anticipated return time;
  - c. License plate numbers of every vehicle used for the outing; and
  - d. Name, location, and, if known, telephone number of the destination.
2. The licensee shall give the driver of a vehicle written emergency information on each child who is participating in the outing and riding with that particular driver.
3. The person supervising the child shall keep the information during the outing. The information shall include:
  - a. Each child's medication requirements, if any;
  - b. Common and known potential adverse reactions a child may have to a medication;
  - c. Adverse reactions a child may have as the result of delay in administration of medication; and
  - d. Any other adverse reaction a child is likely to have due to the child's special needs, including allergic reactions to particular substances or insects.
4. The licensee shall tell the driver about a child's particular needs or problems which may reasonably cause difficulties during transportation, including seizures, tendency toward motion sickness, disability, anxiety, or other phobias.

##### D. Extended outings: If a licensee takes children in care on an outing that lasts more than 30 consecutive days, the licensee shall:

1. Obtain court permission for any children who are court wards;
2. Comply with the requirements in R6-5-7469 through R6-5-7471 governing outdoor experience programs.

##### E. Vehicles.

1. A licensee shall ensure that all vehicles used for the transportation of children in care:
  - a. Are mechanically sound and in good repair,
  - b. Conform to applicable motor vehicle laws, and
  - c. Have equipment appropriate to the terrain and the weather.

2. The licensee shall not allow the number of individuals in a vehicle used to transport children in care to exceed the number of available seats and seat belts in a vehicle other than a bus. If the vehicle is a bus, the licensee shall not exceed the maximum stated occupancy on the bus inspection certificate.
3. A licensee serving nonambulatory children or children with disabilities shall provide access to transportation that accommodates the children's special needs and disabilities.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7468. Special Provisions for Shelter Care Facilities

##### A. General Requirements: A licensee operating a shelter care facility shall comply with all requirements prescribed in this Article, unless otherwise provided in this Section.

##### B. Admission Policy and Practice:

1. If a child has already been in shelter care for more than 42 days, a licensee shall not admit the child into shelter care at the licensee's facility, or permit the child to continue residing at the licensee's facility, unless the licensee has:
  - a. Asked the child's placing agency or person to have a multidisciplinary team:
    - i. Assess the child through a review of the child's records or in person; and
    - ii. Develop a service plan for the child; and
  - b. Documented the request in the child's record.
2. When a child self-refers to a shelter care facility, the licensee shall, within 24 hours of the child's arrival:
  - a. Notify the Department or the child's guardian; and
  - b. Document the placing agency or person's consent for the child's continued placement in a written agreement with the placing agency or person, or by obtaining a court order.
3. A licensee does not have to obtain medical information and consents before or at the time of a child's admission to a shelter care facility as prescribed in R6-5-7438(E)(4) and (5), but shall document attempts to obtain the medical consents from the placing agency or person within two days of the child's admission.
4. At the time of a child's admission, the licensee is not required to obtain the comprehensive intake assessment required by R6-5-7438(D), but shall work with the placing agency or person to compile information on and assess the child's current social, behavioral, psychological, developmental, health, legal, family, and educational status, as applicable to the child.

##### C. Staff-child ratio: A shelter care facility shall comply with the staff-child ratios prescribed in R6-5-7437, except that a licensee who accepts six or more children in care at a shelter facility shall have at least one awake staff member on duty during sleeping hours.

##### D. Staff development: In addition to the training requirements prescribed in R6-5-7433, a licensee shall train staff members who work at a shelter care facility to recognize the signs and effects of:

1. Substance use and abuse,
2. Common childhood illness, and
3. Communicable disease.

##### E. Medical care: A shelter care facility does not have to provide or arrange a medical examination as required by R6-5-7452(B)(1) unless the general health assessment required by R6-5-7438(E)(9) indicates a need for further medical attention.

- F. Service planning: Unless a child remains in continuous shelter care for more than 42 consecutive days, a licensee operating a shelter care facility is not required to comply with the R6-5-7441 regarding service planning.
- G. Children's records: A licensee shall maintain a record for each child in a shelter care facility as prescribed in R6-5-7428 except the licensee need not:
  1. Comply with R6-5-7441, except as otherwise provided in subsection (F) above; or
  2. Maintain treatment or clinical records and reports or progress monitoring notes as required by R6-5-7428(9) and (13).

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7469. Special Provisions and Exemptions for Outdoor Experience Programs

- A. A licensee operating an outdoor experience program shall comply with the requirements in 6 A.A.C. 5, Article 74, except as otherwise provided in this Section.
- B. An outdoor experience program shall not accept children younger than age 8.
- C. An outdoor experience program is exempt from the requirements set forth in the following rules:
  1. R6-5-7458. Buildings; Grounds; Water Supply;
  2. R6-5-7459. Building Interior;
  3. R6-5-7460. Kitchens; Food Preparation; and Dining Areas;
  4. R6-5-7461. Sleeping Areas and Furnishings;
  5. R6-5-7462. Bathrooms;
  6. R6-5-7463. Other Facility Space; Staff Quarters;
  7. R6-5-7464. Fire, Emergency, and Fire Prevention;
  8. R6-5-7465. General Safety;
  9. R6-5-7466. Swimming Areas;
  10. R6-5-7467. Access; Transportation; Outings; and
  11. R6-5-7468. Special Provisions for Shelter Care Facilities.
- D. An outdoor experience program shall comply with the requirements in R6-5-7470 and R6-5-7471.
- E. If there is a conflict between the requirements set forth in R6-5-7401 through R6-5-7468 and the requirements set forth in R6-5-7469 through R6-5-7471, the latter requirements govern.

#### Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### R6-5-7470. Planning Requirements for Outdoor Experience Programs

- A. Definitions. As used in this Section, the term "agency" means a licensee operating an outdoor experience program.
- B. Trip itinerary. The agency shall develop a tentative day-to-day itinerary and a trip map for each trip prior to departure. One copy each of the itinerary and map shall be distributed as follows: to the agency for its office files; to the mobile program staff; when appropriate, to local authorities at each point on the itinerary before departure; to the child placing agency representative for each child who will be departing on the trip, and to the Department licensing representative. When major amendments to the itinerary are necessary due to unforeseen circumstances on the trip, written notification to the designated individuals shall be made. The itinerary shall reflect the following:
  1. The travel schedule shall allow for daily periodic rest stops, relaxation, exercise, and personal time.
  2. The travel schedule shall not exceed five consecutive days without at least two full intervening non-traveling

days, unless emergency conditions such as storms force travel to safer sites.

3. The travel schedule shall specify the number of days of the trip, including departure and return dates and times, and mileage to be covered each day.
  4. The travel schedule shall specify the route, specific tentatively planned locations of overnight stops, and activities in which children will participate.
  5. The travel schedule shall specify the mode of transportation.
- C. Trip plans. The agency shall develop written plans prior to the departure of each trip. These plans shall include:
    1. The name, age, sex, address, and emergency phone number of each staff participant and of each child's parent or guardian and placing agency;
    2. The exact location and access route for emergency rescue, search, fire, and medical assistance and law enforcement authorities at each program stop or location including the names, addresses, telephone numbers of other alternative means of communication with such authorities in case of an emergency. This information shall be included and identified on the trip map;
    3. Contingency plans to deal with medical problems, fire, natural disasters, lost children, and other emergencies;
    4. Plans for the care of any person who, for any reason, must be excluded from the program for a period of time;
    5. Provision for and storage within ready access of the program staff, documents which fully identify the group, its leadership, ownership of equipment, purpose, insurance coverage, home base, and which contain completed health history forms and emergency treatment release forms;
    6. Identification of appropriate sources or locations for water, food, doing laundry, bathing, liquid and solid waste, and garbage disposal;
    7. A scheduled progress and condition report system between the mobile program and the agency administrator;
    8. The maintenance by staff of a trip log which details each day's operation including travel time, mileage covered, and occurrences of the day;
    9. The safe storage for all supplies and equipment while in transit as well as at the campsites.
  - D. Pre-departure procedures
    1. The appropriate permissions shall be secured, if possible prior to departure, for traveling on roads and properties, using sites, and building fires.
    2. Prior to departure, each child shall receive medical clearance from a physician in order to participate in the mobile portion of the program.
    3. Prior to departure, all children and staff shall receive instruction in the safe and proper use of all equipment to be used on the trip.
    4. Prior to departure, all children and staff shall be oriented as to safety regulations, emergency procedures, and transportation to emergency facilities or personnel, or both.
    5. Prior to departure, the route, activities and logistics shall be approved in writing by the agency administrator.
    6. An emergency liaison coordinator shall be appointed prior to departure. This coordinator or the coordinator's designee shall be available on a 24-hour basis. This person shall be located at the agency administrative office, and shall be at least 21 years of age and shall possess the following information about the program:
      - a. Names of individuals on the trip, including the staff member in charge;

- b. Exact trip itinerary;
- c. Number of days, including departure and return dates and times;
- d. Rescue and evacuation plans and locations;
- e. Pertinent medical information about program participants.

**Historical Note**

Renumbered from R6-5-7307 to R6-5-7470 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**R6-5-7471. Special Physical Environment and Safety Requirements for Outdoor Experience Programs**

**A.** Definition. As used in this Section, the term "agency" means a licensee operating an outdoor experience program.

**B.** Campsite location

1. General. The agency shall conduct activities on sites appropriate for the children in terms of individual needs, program goals, and access to service facilities.
2. Hazards
  - a. When selecting a campsite, the agency shall consider supervision of children, security, evacuation routes, animal hazards, and weather conditions, including the possibilities of lightning or flood.
  - b. A campsite shall be located on land that provides good drainage. A campsite shall not be located in a river bed or desert wash.
  - c. A campsite shall be free of debris, poisonous vegetation, and uncontrolled weeds or brush.
  - d. Children shall be warned and protected from hazardous areas such as traffic, cliffs, sinkholes, pits, falling rock or debris, abandoned excavations and poisonous vegetation. Hazardous areas shall be guarded or posted to reduce the possibility of accidents.

**C.** Physical environment

## 1. Sleeping shelters

- a. All tents, teepees, or other sleeping shelters made of cloth shall be fire retardant or, if purchased after January 1985, shall be of the fiber-impregnated flame-retardant variety. Plastic sleeping enclosures of any type are prohibited.
- b. Tents or other shelters used for sleeping areas shall be easily cleanable and in good repair, shall be structured and maintained in safe condition and shall afford adequate protection against inclement weather.
- c. Tents or other types of temporary shelters shall provide sleeping space of not less than 15 square feet per person.
- d. Campfires and open flames of any type are prohibited within 21 feet of any tent, teepee, or other sleeping shelter.
- e. Smoking is prohibited within any sleeping shelter.
- f. All sleeping shelters shall be posted with a permanent warning "No open flame in or near this shelter." This warning shall be on a sign or stenciled directly on the shelter.
- g. Sleeping areas shall have direct exit access to the outside which is free of all obstruction or impediments to immediate use in the case of fire or other emergency.

## 2. Sleeping equipment

- a. Sleeping equipment shall be provided by the agency and shall be clean, comfortable, non-toxic and fire-retardant.

- b. Sleeping equipment shall provide reasonable insulation from cold and dampness. In addition to sleeping bag or blankets, insulation from the ground such as with a waterproof ground cloth or air or foam mattress shall be provided. A waterproof sleeping bag is not satisfactory.
- c. All sleeping equipment shall be laundered, dry cleaned, and otherwise sanitized between assignment to different children or staff. Bedding shall be aired at least once every five days and laundered, dry cleaned, and sanitized once every 30 days.
- d. Each child shall have a place for personal own sleeping equipment, clothes, and personal belongings. Such items shall be labeled or marked as to which child is using or owns such items.

## 3. Outdoor toilet areas

- a. The agency with outdoor toilet areas shall provide facilities which allow for individual privacy.
- b. Toilet areas shall be constructed, located and maintained so as to prevent any nuisance or public health hazard. Facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner as prescribed by the Department of Health Services in A.A.C. R9-8-301 through R9-3-308, and the Department of Environmental Quality in 18 A.A.C. 8, Article 6.
- c. Toilet areas which do not have plumbing shall be located at least 75 feet from but within 300 feet of any living or sleeping area, or both, and shall be located at least 100 feet from any lake, stream, or water supply.
- d. Toilets, outhouses, or portable shacks shall be adequate in number based on one seat for every 10 children in care.
  - i. There shall be a minimum of two seats if there are more than five children.
  - ii. If the agency serves physically disabled children, toilet facilities shall provide one seat for every eight persons.
- e. Toilet facilities shall be well ventilated, allow for air circulation, be screened and periodically treated to deter insects, and be in good repair. An adequate supply of toilet paper shall be provided.
- f. Toilets, outhouses, and portable shacks shall be cleaned and disinfected at least daily. Portable shacks shall be dumped daily in an approved dump station.
- g. Toilet seats shall be constructed of nonporous materials. Wood is not acceptable.
- h. Handwashing facilities shall be adjacent to the toilet area and shall be separate and apart from sinks and areas used for food preparation or washing pots, pans, kitchen, and eating utensils. Individual soaps and hand-drying devices shall be available.

## 4. Food preparation and serving

- a. Menus. Menus shall be planned at least one week in advance and shall then be dated, posted, and kept on file for one year.
- b. Food
  - i. All food and drink shall be stored to prevent spoilage. Only the foods which can be maintained in a wholesome condition with the equipment available shall be used.
  - ii. All milk and milk products utilized by the agency shall be obtained from sources

- approved by the State Department of Health Services.
- iii. Only pasteurized milk and U.S. Government-inspected meat shall be served to the children. Powdered milk may only be used for cooking or when no refrigeration is available on a wilderness trip.
- iv. Spoiled or contaminated foods shall not be used.
- v. Raw fruits and vegetables shall be washed before use.
- c. Preparation
  - i. All persons handling food shall wear clean outer garments and keep their hands and fingernails clean at all times while handling food, drink, utensils, or equipment.
  - ii. Smoking in the food preparation area is prohibited.
  - iii. Handwashing areas, including water, soap, and approved sanitary towels or other approved hand-drying devices, shall be provided adjacent to food preparation areas.
  - iv. Areas in which food and drink are stored, prepared or served, or in which utensils are washed, shall be rodent proof, rodent free, and rubbish free. They shall be cleaned after the serving of each meal. Any floors, walls, shelves, tables, utensils, and equipment in these areas shall be of such construction as to be easily cleaned, and shall be well lighted and ventilated.
  - v. All food preparation and service shall comply with applicable Department of Health Services food service rules in 9 A.A.C. 8, Article 1.
  - vi. No dish, receptacle, or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, or broken.
  - vii. Prepared food shall be maintained at temperatures below 45° F or above 140° F; leftovers shall be reheated to 165° F.
- d. Serving
  - i. Meal time shall be structured to make it a pleasant experience with sufficient time allowed for the children to eat at a reasonable, leisurely rate.
  - ii. Normal conversation shall be allowed and encouraged during meals.
- e. Dish and utensil washing
  - i. Disposable or single-use dishes, utensils, receptacles or towels used in handling or preparing food shall be discarded after one use.
  - ii. Non-disposable food service dishes and utensils shall be cleaned and disinfected after each use in accordance with the following:
    - (1) A three-compartment sink or vat shall be used. Dishes and utensils shall be thoroughly scraped, washed with soap or detergent in hot water, kept clean, then rinsed free of detergents in clear water and then immersed for a period of at least two minutes in a warm or hot chlorine solution containing at no time less than 50 parts per million of available chlorine or such other solution as may be approved by the state or local health authority.
    - (2) Sinks shall be large enough to thoroughly immerse pots and pans.
    - (3) Dish towels shall not be used.
    - (4) Dishes and utensils shall be air dried. Drain boards shall be provided for draining dishes and utensils.
- D. Equipment
  - 1. Tools. Power tools, garden tools, and repair equipment shall be kept in a locked area and used by children only under adult supervision.
  - 2. Protective clothing/equipment. Appropriate protective clothing/equipment shall be provided to children by the agency, when children are participating in potentially hazardous activities.
  - 3. Program equipment
    - a. The agency shall use program equipment that is maintained in good repair, stored in such a manner as to safeguard the effectiveness of the equipment, and is given a complete safety check periodically and immediately prior to each use. Equipment shall be discarded after a period of time designated by the manufacturer.
    - b. The agency shall use program equipment appropriate to the age, size, and ability of each child in the activity.
- E. Storage. The agency shall provide sufficient and appropriate storage facilities.
  - 1. Toxic substances
    - a. The agency shall have securely locked storage spaces for all harmful materials. The keys to such storage spaces shall be available only to authorized staff members.
    - b. House and garden insecticides and other poisonous materials and all corrosive materials shall be kept in locked storage out of reach of children. Such storage shall not be in or near kitchen or food preparation or storage areas.
    - c. The agency shall have only those poisonous or toxic materials needed to maintain the program.
  - 2. Drugs
    - a. A special cabinet shall be designated for medicine only. The medicine cabinet shall be kept locked and periodically cleaned. All outdated medications and those prescribed for past illnesses or for children discharged from the agency shall be destroyed.
    - b. All prescription medicines, drugs, etc., requiring refrigeration shall be marked with the required temperature range and stored in a refrigerator with a thermometer separate from food items and maintained under temperature ranges recommended by the manufacturer.
  - 3. Flammable materials. Flammable liquids and gases shall be stored in metal containers only. The storage area must be separated from the rest of the living/program area.
  - 4. Food
    - a. All food and drink shall be stored so as to be protected from dust, flies, vermin, rodents, and other contamination. No live animals shall be allowed in any area in which food or drink is stored.
    - b. Food and nontoxic cleaning supplies must be stored separately. Clean dishes and utensils shall be stored on properly covered shelves or in containers which are cleaned once a week with a chlorine solution (1 tablespoon of bleach to one gallon of water or an acceptable equivalent).
    - c. All perishable food items shall be kept refrigerated except during the time of preparation and service.

- d. The temperature of refrigerated food must be maintained within a range from 38°F to 45°F.
  - e. A thermometer shall be located in each refrigerator, including ice boxes and ice chests, as well as electric or gas refrigerators. Where ice and ice boxes or chests are used, adequate ice shall be provided, meats and other highly perishable foods shall not be stored over 24 hours and ice chests shall be drained to prevent accumulation of water from melted ice.
- F. Water**
- 1. Approved source. The agency must have a sufficient water supply which is potable and from an approved source or purified for drinking, brushing teeth, and cooking.
  - 2. Water purification. Water purification tablets or other means of disinfecting water shall be available at all times. The agency shall have a written policy on effective purification methods to be employed according to the water sources utilized and possible types of contamination.
  - 3. Bathing. Warm water facilities shall be planned for and available for each child to bathe at least once a week.
  - 4. Washing and laundering. Personal washing and laundering is not permitted in any body of water. Water used for these purposes shall be taken in a container from the lake, river or pond, and after use, shall be dumped on land at least 50 yards from the water source.
  - 5. Drinking water
    - a. Cool, potable drinking water shall be available for all children at all times.
    - b. The use of a common drinking utensil is prohibited.
- G. Sanitation**
- 1. Health and Environmental requirements
    - a. The disposal of sewage, garbage, and other wastes shall be done in accordance with local health and applicable state requirements, as provided in 18 A.A.C. 8, Article 6 and 18 A.A.C. 9, Article 8.
    - b. The agency shall obtain sanitation inspections of mobile kitchens or mobile toilet facilities, or both, prior to each trip by state or county authorities. Written reports of the sanitary inspections shall be kept on file at the agency. The agency shall meet all local, state, and federal health rules and regulations.
  - 2. Garbage and rubbish
    - a. Garbage and rubbish shall be stored securely in durable, noncombustible, leakproof, non-absorbent containers covered with tight-fitting lids. Such containers shall be provided with a waterproof liner or thoroughly cleaned after each emptying.
    - b. Garbage and rubbish storage shall be separate from living/sleeping areas.
    - c. Garbage, rubbish and other solid wastes shall be disposed of twice weekly at an approved sanitary landfill or similar disposal facility. In areas where no facilities are immediately available, solid wastes shall be packed out or disposed of in a manner in accordance with the regulations governing the area.
  - 3. Sewage and wastes
    - a. Sewage and other liquid wastes shall be disposed of in a public sewage system or, in the absence thereof, in a manner approved by the local health authority.
    - b. Where possible, adequate and safe sewage facilities with flush toilets shall be provided.
  - 4. Insects and rodents. Methods utilized in control of insects and rodents shall be used in a safe, cautious manner to avoid poisonous or toxic contamination to human beings.
- H. Safety**
- 1. Emergency procedures
    - a. The agency shall have and follow written procedures for staff and children in case of emergency. These procedures shall be developed with the assistance of qualified fire, safety, and rescue personnel and shall include provisions for the evacuation of all program areas and assignment of staff.
    - b. The agency shall train staff and children to report fires and other emergencies appropriately. Children and staff shall be trained in fire prevention.
    - c. The agency shall conduct emergency drills which shall include actual evacuation of children to safe areas at least monthly. The agency shall provide training for personnel on all shifts in performing assigned tasks during emergencies and making personnel familiar with the use of agency fire-fighting equipment.
      - i. Emergency drills shall be held at unexpected times and under varying conditions to simulate the possible conditions of fire or other disasters.
      - ii. All persons in the program area shall participate in emergency drills.
      - iii. A record of such emergency drills shall be maintained.
      - iv. The agency shall make special provisions for the evacuation of any physically handicapped children in the program.
      - v. The agency shall help emotionally disturbed or perceptually handicapped children understand the nature of such drills.
  - 2. General program safety
    - a. The agency shall have written operating procedures, safety regulations, and emergency procedures for special program activities in which children participate, including aquatics, diving, lifesaving, instructional swimming, recreational swimming, water skiing, skin diving, scuba diving, boating, canoeing, rowing, sailing, crafts, bicycling, farming, horse-back riding, mountaineering, rock climbing, rappelling, caving, outdoor living skills, physical fitness, snow and ice activities, archery, gymnastics, riflery, contact sports, backpacking, expedition travel, and animal handling.
    - b. The agency shall provide the written operating procedures, safety regulations, and emergency procedures to the Department licensing staff for review and approval.
    - c. All children and staff shall receive instruction in the safe and proper use of all equipment and animals to be used by the program.
    - d. All children and staff shall be oriented as to safety regulations, emergency procedures and transportation to emergency facilities and/or personnel.
  - 3. Electrical
    - a. Electrical wiring and electrical appliances shall be installed in accordance with the Arizona State Fire Code at A.A.C. R4-36-201.
    - b. Electrical wires extending over activity areas shall be fully insulated and located at least 12 feet above the activity area.
    - c. All exposed wiring shall be fully insulated.
  - 4. Gas appliances
    - a. The installation of gas appliances for lighting, cooking, space heating, and water heating shall conform to state and local codes. Where no code applies, the

provisions of A.R.S. §§ 36-1621 through 36-1626, together with the standards for the installation of gas appliances and gas piping, shall be followed.

- b. All unused gas outlets shall have the valves removed and shall be capped off with a standard pipe cap.
- c. Gasoline shall not be used for lighting, cooking, or heating.
- 5. Fire safety equipment
  - a. Portable fire extinguishers shall be available and maintained for emergency fire protection. The number and type shall depend on the area to be protected.
  - b. All fire extinguishers shall be inspected at least monthly by staff members for proper location and to determine whether they are accessible, fully charged, and operable.
  - c. All fire extinguishers shall be inspected by an authorized fire extinguisher company at least once a year from the date of last charge and recharged immediately after use, or as otherwise necessary, showing the date of charging and the agency or company performing the work.
  - d. A dependable method of sounding a fire alarm shall be maintained in every agency area where children are located.
  - e. A written fire evacuation plan shall be posted.

#### **I. Water safety**

- 1. Water activities supervision
  - a. A water activities program operated by the agency shall at all times be under the immediate supervision of a person holding current certification as a Red Cross Water Safety Instructor, a YMCA Instructor in swimming and life saving, or an Aquatic Instructor Boy Scouts of America. A water-activities program includes recreational and instructional swimming in a pool, on a beach, or other approved water areas, rowing, canoeing, sailing, boating, water skiing, snorkeling and scuba diving.
  - b. The water activities supervisor shall provide pre-service training programs for participating children, supervise qualified lifeguards for water activities and maintain water activities equipment in safe working order.
  - c. There shall be a minimum of one guard currently certified in Red Cross Advanced Lifesaving, YMCA Lifesaving, or a Lifeguard Boy Scouts of America on duty for each 25 persons in or on the water, and in addition one staff member directly watching every 10 or less persons in or on the water.
- 2. Swimming procedures
  - a. American Red Cross, YMCA, or Boy Scouts of America tests shall be used to determine each child's swimming ability. Children shall be confined to an area equal to the limits of their swimming skills or an area requiring lesser skills for which they have been classified.
  - b. A method of supervising and checking bathers shall be established and enforced. The system used shall be supervised during swimming periods by a member of the aquatics staff and checks shall be conducted not less than every 10 minutes. A written "lost swimmer" plan shall be established and all staff shall know exactly what their duties are in case of an emergency.
  - c. Children shall swim only in areas designated by the water activities supervisor as safe.

- d. Swimming is prohibited during the hours of darkness except in lighted pools.

#### **3. Swimming areas**

- a. A swimming area shall be maintained in a clean and safe condition, free from holes, sharp edges, and hidden dangers. The agency shall post notice of any known hazard in the vicinity and shall properly safeguard children.
- b. The swimming area shall have a delineation of areas for non-swimmers, intermediates, and swimmers in accordance with the standards of the American Red Cross, YMCA, Boy Scouts of America.
- c. Lifesaving equipment shall be provided at a swimming area and placed so it is immediately available in case of an emergency. The equipment shall be kept in good working order and include a bell or whistle, two assist poles, and a ring buoy.
- d. The water of a natural swimming area shall be free from contamination by garbage, refuse, sewage pollution, or foreign material.

#### **4. Watercraft and water-skiing**

- a. Any watercraft activities shall be conducted during daylight hours and supervised by the aquatics program instructor. A U.S. Coast Guard-approved life preserver shall be provided for each occupant of a watercraft. A non-swimmer shall wear a vest-type Coast Guard-approved life preserver and not be permitted in a watercraft unless accompanied by a staff member. A child shall wear a vest-type Coast Guard-approved life preserver before entering and while in white water or on a lake when the water is rough or while water-skiing.
- b. During a watercraft activity period, a lifeguard shall patrol the watercraft area in a lifeboat. A watercraft docking area shall not be in the swimming area.
- c. The swimming area shall not be used for the launching or stopping of water-skiers.
- d. The agency which requires or permits children to use watercraft shall have special coverage for such activities included in the agency's liability insurance.

#### **J. Communications.** The agency shall have a plan for emergency communication and communication equipment available with each mobile program unit, which may include:

- 1. Telephone in camp units and outposts;
- 2. Two-way radio or walkie-talkie;
- 3. Knowledge of phone or radio locations on backpack, horseback, canoe or car trips, such as Ranger stations in remote areas;
- 4. Simple code by flag, smoke, or mirror or other means if planned in advance.

#### **K. Transportation**

- 1. Vehicles
  - a. The agency shall provide or arrange transportation necessary for implementing the child's service plan.
  - b. Vehicles used in transporting children in care of the agency shall be licensed and inspected in accordance with Arizona state law.
  - c. Vehicles used for the transportation of children shall be maintained in a safe condition and be equipped in a fashion appropriate for the season.
  - d. The agency shall maintain written evidence that all vehicles owned, leased, borrowed, or rented by the agency to transport children are serviced regularly and maintained safely.

- e. Vehicles used for the transportation of children shall be equipped with a first-aid kit and emergency accessories including tools, a fire extinguisher and flares or reflectors.
  - f. The agency shall not allow the number of persons in any vehicle used to transport children to exceed the number of available seats in the vehicle.
  - g. The agency shall not transport children in open truck beds or in trailers.
  - h. The agency shall ensure that any vehicle used to transport children has the following minimum amounts of liability insurance:  
Injury per person: \$300,000  
Injury per accident: \$1,000,000
2. Drivers
    - a. Any person transporting children in care of the agency shall be licensed to operate that class of vehicle according to Arizona state law.
    - b. The agency shall provide adequate supervision in any vehicle used by the agency to transport children in care.
    - c. The agency shall ascertain the nature of any need or problem of a child which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness, or a disability. The agency shall communicate such information to the operator of any vehicle transporting children in care.
  3. Transportation of nonambulatory children. The following additional arrangements are required for agencies serving handicapped, nonambulatory children.
    - a. A ramp device to permit entry and exit of a child from the vehicle must be provided for all vehicles except automobiles used to transport physically handicapped children. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.
- b. In all land vehicles except automobiles, wheelchairs shall be securely fastened to the floor.
  - c. In all land vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.
4. Emergency transportation
    - a. The agency shall have means of transporting children in cases of emergency.
    - b. The agency shall have a written plan for transportation of injured persons to emergency medical services.
- L. Animals
    1. Safety. The agency shall be responsible for the care and behavior of pets or any animals allowed or used in the program. Animals shall have had necessary rabies shots.
    2. Insurance. The agency which requires or permits children to ride horses or other domesticated animals shall have specific coverage for such activities included in the agency's liability insurance.
    3. Sanitation. A temporary, shelter, corral, tie-rail, or hitching post shall be located beyond 50 feet of an area where food is prepared, cooked, or served. Fly repellents and daily removal of manure shall be used to prevent such a location from becoming an attraction for or breeding place for flies.

**Historical Note**

Renumbered from R6-5-7308 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

**APPENDIX 1**

<b>FACTOR</b>	<b>INDICIA OF A BEHAVIORAL HEALTH AGENCY</b>	<b>INDICIA OF A CHILD WELFARE AGENCY</b>
1. Primary purpose	To provide mental health treatment	To provide a safe & healthy living environment
2. Accreditation	JCAHO; COA; CARF	COA; Never JCAHO for this specific facility seeking licensure
3. Nursing Services	Integrated into services	Occasional use
4. On-campus educational services	Primarily seriously emotionally disturbed (SED); occasional regular education	Primarily regular education & learning disabilities; occasional SED
5. Population served	Described as psychiatrically disordered; seriously emotionally disturbed; psychologically disturbed	Described as behavior disordered, delinquent, dependent, neglected, undersocialized
6. Self-description	Behavioral Health Program Psychiatric Facility Psychosocial orientation	Child Welfare Agency; Social Services Agency;
Educational		



		orientation; Re-education
7. Primary source of referrals	Psychologists; psychiatrists; Insurance companies; CHAMPUS; RBHA's	DES; Juvenile courts; Juvenile Corrections; RBHA's as transition or with wrap-around
8. Counseling, psychological, psychiatric services	Routinely provided to all clients	Provided only on an "as-needed" basis
9. Location of behavioral health services	Within the program	Usually in office of contracted practitioner
10. Behavioral health practitioners	Employees or contractors	Usually contracted services; may be contractor from another program or agency
11. Case work services	Social workers, if any, are only part of professional staff	Social workers are primary part of professional staff
12. Staff titles; direct care workers	Behavioral health technicians; psychiatric technicians; psychiatric nurses	House parents; child care workers; teaching parents

#### Historical Note

Appendix 1 adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

#### ARTICLE 75. APPEAL AND HEARING PROCEDURES FOR ADVERSE ACTION AGAINST FAMILY FOSTER HOMES, ADOPTION AGENCIES, FAMILY CHILD CARE HOME PROVIDERS, AND PERSONS LISTED ON THE CHILD CARE RESOURCE AND REFERRAL SYSTEM

##### R6-5-7501. Definitions

The following definitions apply in this Article.

1. "Adverse action" means:
  - a. Denial, suspension, or revocation of a child care provider's certification, an adoption agency license, or a foster home license; and
  - b. Exclusion from the child care resource and referral system described in A.R.S. § 41-1967.
2. "Administration" means the Department organizational unit responsible for taking adverse action which is the subject of an appeal. "Administration" includes the Division of Children, Youth, and Families and the Child Care Administration.
3. "Adoption agency" has the meaning ascribed to "agency" in A.R.S. § 8-101(2).
4. "Appeals Board" means the Department's independent, quasi-judicial, administrative appellate body, established under A.R.S. § 23-672, and authorized to review administrative decisions issued by hearing officers as prescribed in A.R.S. § 41-1992(D).
5. "Appellant" means a person who seeks a hearing with the Office of Appeals to challenge adverse action taken by the Department.
6. "Child Care Administration" means the administrative unit within the Department which is responsible for certification and supervision of family child care home providers and administration of the Child Care Resource and Referral System.
7. "Child Care Resource and Referral System," which is sometimes referred to as "CCR&R," means the child care provider information system which the Department administers under A.R.S. § 41-1967.
8. "Department" means the Arizona Department of Economic Security.
9. "Division of Children, Youth, and Families" means the administrative unit in the Department responsible for licensing foster homes and adoption agencies.
10. "Family child care home provider" has the meaning prescribed in R6-5-5201(29).
11. "Foster parent" has the meaning prescribed in A.R.S. § 8-501(A)(5).
12. "Hearing officer" means an individual appointed by the Department Director under A.R.S. § 41-1992(A) to conduct hearings when an appellant challenges adverse action.
13. "Licensee" means a person:
  - a. Applying for a license as, or currently licensed as, a foster parent or an adoption agency;
  - b. Applying for certification as, or certified as, a family child care home provider; or
  - c. Listed on the Child Care Resource and Referral System.
14. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body which includes hearing officers appointed under A.R.S. § 41-1992(A).
15. "Person" means a natural person, partnership, joint venture, company, corporation, firm, association, society, or institution.

#### Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

##### R6-5-7502. Entitlement to a Hearing; Appealable Action

- A. A licensee who disputes adverse action may obtain an administrative hearing to challenge the action as provided in this Article.

**B.** The following actions are not appealable:

1. An adverse action resulting from a uniform change in federal or state law, unless the Department has misapplied the law to the person seeking the hearing;
2. Failure to clear a fingerprint check or criminal history check;
3. Imposition of noncompliance status as prescribed in R6-5-7035;
4. Imposition of a corrective action plan as prescribed in R6-5-5818;
5. Removal of a child from a placement;
6. Failure to enter into a contract with a particular licensee or to place a child with a particular licensee; and
7. Imposition of a provisional license as prescribed in A.R.S. § 8-509(D).

**C.** Findings made in a Child Protective Services (“CPS”) investigation are not appealable under this Article. A person may appeal findings made in a CPS investigation of a licensee as prescribed in A.R.S. § 8-546.12.**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7503. Computation of Time****A.** In computing any time period,

1. The term “day” means a calendar day;
2. The term “work day” means Monday through Friday, excluding Arizona state holidays;
3. The date of the act, event, notice, or default from which a designated time period begins to run is not counted as part of the time period; and
4. The last day of the designated time period is counted, unless it is a Saturday, Sunday, or Arizona state holiday.

**B.** A document mailed by the Department is deemed given to the addressee on the date mailed to the addressee’s last known address. The mailing date is presumed to be the date shown on the document, unless the facts show otherwise.**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7504. Request for Hearing; Form; Time Limits; Presumptions****A.** Except as otherwise provided in R6-5-5010(A) and R6-5-5227, a person who wishes to appeal an adverse action shall file a written request for hearing with the Administration within 20 days of the date on the notice or letter advising the person of the adverse action. The Administration shall provide a form for this purpose, and, upon request, shall help an appellant fill out the form.**B.** An appellant shall include the following information in the request for hearing:

1. Name, address, and telephone number, and, if applicable, telefacsimile number of the person subject to the adverse action;
2. Identification of the Administration initiating the adverse action;
3. A description of the adverse action which is the subject of the appeal;
4. The date of the notice of adverse action; and
5. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.

**C.** The Department shall not deny an appeal solely because the request does not include all the information listed in subsection (B), so long as the request contains sufficient information for the Department to determine the identity of the appellant and the issue on appeal.**D.** A request for hearing is deemed filed:

1. On the mailing date, as shown by the postmark, if sent first-class mail, postage prepaid, through the United States Postal Service to the Department; or
2. On the date actually received by the Department, if not mailed as provided in subsection (D)(1).

**E.** The Department may determine that a document was timely filed if the sender of the document can demonstrate that the delay in submission was due to any of the following reasons:

1. Department error or misinformation,
2. Delay or other action by the United States Postal Service, or
3. Delay caused by the appellant changing mailing addresses at a time when the appellant had no duty to notify the Administration of the change.

**F.** When the Office of Appeals receives a request for hearing that was not timely filed, the Office of Appeals shall schedule a hearing to determine whether the delay in submission is excused as provided in subsection (E).**G.** An appellant whose appeal is denied as untimely may petition for review as provided in R6-5-7518.**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7505. Administration: Transmittal of Appeal**

An Administration that receives a request for appeal shall send the Office of Appeals a copy of the request and the adverse action notice within two work days of receipt of the request.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7506. Stay of Adverse Action Pending Appeal****A.** The Department shall not carry out the adverse action until the time for appeal has run, except as otherwise provided in subsection (C), and in the following circumstances:

1. The appellant expressly waives the delay of action; or
2. The appellant
  - a. Is subject to the same adverse action for reasons other than those that are the subject of the current adverse action notice, and
  - b. Received notice of and failed to timely appeal the adverse action being imposed for reasons other than those that are the subject of the current notice.

**B.** If an appellant timely appeals an adverse action as provided in R6-5-7504, the Department shall not carry out the adverse action until a hearing officer issues a decision affirming the adverse action, except as otherwise provided in subsection (C), and in the following circumstances:

1. The appellant expressly waives the delay of action;
2. The appellant
  - a. Is subject to the same adverse action for reasons other than those that are the subject of the current adverse action notice; and
  - b. Received notice of and failed to timely appeal the adverse action being imposed for reasons other than those that are the subject of the current notice;
3. The appeal challenges an action that is not appealable according to R6-5-7502(B);
4. The appellant withdraws the request for hearing; or
5. The appellant fails to appear for the hearing.

**C.** The Department may summarily suspend a license, a certificate, or registration on the CCR & R, as provided in A.R.S. § 41-1064(C).**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7507. Hearings: Location; Notice; Time**

- A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing or permit a witness to appear telephonically.
- B.** Unless the parties stipulate to another hearing date, the Office of Appeals shall schedule the hearing as follows:
  - 1. For appeals of adverse action against a foster parent, within 10 days of the date the Department receives the appellant's request for hearing, as required by A.R.S. § 8-506; and
  - 2. For all other appeals, no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C.** The Office of Appeals shall mail a notice of hearing to all interested parties at least 20 days before the scheduled hearing date, except where the hearing is scheduled within the 10-day period specified in subsection (B)(1). For hearings scheduled within the 10-day period, the Office of Appeals shall notify the parties telephonically and send written notice at the earliest date practicable.
- D.** The notice of hearing shall be in writing and shall include the following information:
  - 1. The date, time, and place of the hearing;
  - 2. The name of the hearing officer;
  - 3. A general statement of the issues involved in the case;
  - 4. A statement listing the parties' rights, as specified in R6-5-7511; and
  - 5. A general statement of the hearing procedures.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7508. Rescheduling the Hearing**

- A.** An appellant may ask for postponement of a hearing by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed. Good cause exists where circumstances beyond the appellant's reasonable control make it difficult or burdensome for the appellant to attend the hearing on the scheduled date.
- B.** Except in emergency circumstances, the appellant shall ensure that the Office of Appeals receives the request for postponement at least five work days before the scheduled hearing date. The Office of Appeals may deny an untimely request. Emergency circumstances mean circumstances
  - 1. Beyond the reasonable control of the party;
  - 2. Which did not arise until after the five-day period; and
  - 3. Which could not reasonably have been anticipated.
- C.** When the Office of Appeals reschedules a hearing under this Section or R6-5-7514, the Office of Appeals shall notify all interested parties, in writing, prior to the hearing. The 20-day notice requirement in R6-5-7507(C) does not apply to rescheduled hearings.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7509. Hearing Officer: Duties and Qualifications**

- A.** An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
  - 1. Administer oaths and affirmations;
  - 2. Regulate and conduct hearings in an orderly and dignified manner that avoids unnecessary repetition and affords due process to all participants;
  - 3. Ensure that all relevant issues are considered;
  - 4. Exclude irrelevant evidence from the record;
  - 5. Request, receive, and incorporate into the record, relevant evidence;

- 6. Upon compliance with the requirements of R6-5-7511, subpoena witnesses or documents needed for the hearing;
- 7. Open, conduct, and close the hearing;
- 8. Rule on the admissibility of evidence offered at the hearing;
- 9. Direct the order of proof at the hearing;
- 10. Upon the request of a party, or on the hearing officer's own motion, and for good cause shown, take action the hearing officer deems necessary for the proper disposition of an appeal, including the following:
  - a. Disqualify himself or herself from the case;
  - b. Continue the hearing to a future date or time;
  - c. Prior to the entry of a final decision, reopen the hearing to take additional evidence;
  - d. Deny or dismiss an appeal or request for hearing in accordance with the provisions of this Article; and
  - e. Exclude non-party witnesses from the hearing room; and
- 11. Issue a written decision resolving the appeal.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7510. Change of Hearing Officer; Challenges for Cause**

- A.** A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit which shall include:
  - 1. The case name and number;
  - 2. The hearing officer assigned to the case; and
  - 3. The name and signature of the party requesting the change.
- B.** The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the scheduled hearing date.
- C.** Unless a party is challenging a hearing officer for cause as provided in subsection (D), a party may request only one change of hearing officer.
- D.** At any time before a hearing officer renders a decision, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- E.** A party who brings a challenge for cause shall file a request as provided in subsection (A) and send a copy of the request to all other parties. The request shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- F.** The hearing officer being challenged for cause may hear and decide the challenge unless:
  - 1. A party specifically requests that another hearing officer make the determination, or
  - 2. The assigned hearing officer disqualifies himself or herself from the decision.
- G.** The Office of Appeals shall transfer the case to another hearing officer when:
  - 1. A party requests a change as provided in subsections (A) through (C), or
  - 2. A hearing officer is removed for cause as provided in subsections (D) through (F).
- H.** The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7511. Subpoenas**

- A.** A party who wishes to have a witness testify at a hearing, or to offer a particular document or item in evidence, shall first attempt to obtain the witness or evidence by voluntary means. Department documents are available to the appellant as prescribed in R6-5-7512(2).

- B. If the party cannot procure the voluntary attendance of the witness or production of the evidence, the party may ask the hearing officer assigned to the case to issue a subpoena for a witness, document, or other physical evidence.
- C. The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
  1. The case name and number;
  2. The name of the party requesting the subpoena;
  3. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony;
  4. A description of any documents or physical evidence to be subpoenaed, including the title, appearance, and location of the item, and the name and address of the person in possession of the item; and
  5. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D. A party who wants a subpoena shall ask for the subpoena at least five days before the scheduled hearing date.
- E. The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is cumulative.
- F. The Office of Appeals shall prepare all subpoenas and serve them by certified mail, return receipt requested, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their state employment, by regular mail, hand-delivery, or state courier service.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7512. Parties' Rights**

A party to a hearing has the following rights:

1. The right to request a postponement of the hearing, as provided in this Article;
2. The right to copy, before or during the hearing, any documents in the Department's file on the appellant, and documents the Department may use at the hearing, except documents shielded by the attorney-client or work-product privilege, or as otherwise prohibited by federal or state confidentiality laws;
3. The right to request a change of hearing officer as provided in A.R.S. § 41-1992(B) and R6-5-7510;
4. The right to request subpoenas for witnesses and evidence as provided in R6-5-7511;
5. The right to present the case in person or through an authorized representative, subject to any limitations prescribed in the Rules of the Supreme Court of Arizona, Rule 31(a);
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, as provided in R6-5-7518 and R6-5-7520, if dissatisfied with an Office of Appeals' decision.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7513. Withdrawal of an Appeal**

- A. An appellant may withdraw an appeal at any time prior to the scheduled hearing by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose. An appellant may also orally withdraw an appeal on the open record.
- B. Upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or a statement of withdrawal made on the record, the Office of Appeals shall dismiss the appeal.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7514. Failure to Appear; Default; Reopening**

- A. If an appellant fails to appear at the scheduled hearing, the hearing officer shall:
  1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
  2. Rule summarily on the available record; or
  3. Adjourn the hearing to a later date and time.
- B. The hearing officer shall not enter a default if the appellant notifies the Office of Appeals, before the scheduled time of hearing, that the appellant cannot attend the hearing, due to good cause, and still desires a hearing or wishes to have the matter considered on the available record.
- C. No later than 10 days after a scheduled hearing date at which a party failed to appear, the non-appearing party may file a request to reopen the proceedings. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
- D. The hearing officer may decide the issue of good cause on the available record or may set the matter for briefing or for hearing.
- E. If the hearing officer finds that the party had good cause for non-appearance, the hearing officer shall reopen the proceedings and schedule a de novo hearing with notice to all interested parties as prescribed in R6-5-7508(C).
- F. Good cause exists where the non-appearing party demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" has the meaning applied to "excusable neglect" as that term is used in Arizona Rules of Civil Procedure, Rule 60(c).

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7515. Hearing Proceedings**

- A. The hearing is a de novo proceeding. The Department has the initial burden of going forward with evidence to support the adverse action being appealed.
- B. To prevail, the appellant shall prove, by a preponderance of the evidence, that the Department's action was unauthorized, unlawful, or an abuse of discretion.
- C. The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 23-674(D).
- D. The Office of Appeals shall tape record all hearings or record the hearing by other stenographic means. The Department need not transcribe the proceedings unless a transcription is required for further administrative or judicial proceedings.
- E. The Office of Appeals charges a fee of 15¢ per page for providing a transcript. A party may obtain a waiver of the fee by submitting an affidavit stating that the party cannot afford to pay for the transcript.
- F. A party may, at his or her own expense, arrange to have a court reporter present to transcribe the hearing.
- G. The hearing officer shall call the hearing to order and dispose of any pre-hearing motions or issues.
- H. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- I. Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence. Unless the hearing officer allows a longer period of time, a statement shall not exceed three minutes.
- J. A party may testify, present evidence, and cross-examine adverse witnesses. The hearing officer may also take witness testimony or admit documentary or physical evidence on his or her own motion.

- K. The hearing officer shall keep a complete record of all proceedings in connection with an appeal and shall exclude any irrelevant evidence.
- L. The hearing officer may require the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7516. Hearing Decision**

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing, and the applicable law. The 60-day time limit is extended for any delay caused by the appellant.
- B. The hearing decision shall include:
  - 1. Findings of fact concerning the issue on appeal;
  - 2. Citations to the law and authority applicable to the issue on appeal;
  - 3. A statement of the conclusions derived from the controlling facts and law, and the reasons for the conclusions;
  - 4. The name of the hearing officer;
  - 5. The date of the decision; and
  - 6. A statement of further appeal rights and the time period for exercising those rights.
- C. The Office of Appeals shall mail a copy of the decision to each party's representative, or to the party if the party is unrepresented.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7517. Effect of the Decision**

- A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective on the mailing date of the hearing officer's decision. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
- B. If the hearing officer reverses the Administration's decision to take adverse action, the Administration shall not take the action unless and until the Appeals Board or Arizona Court of Appeals issues a decision affirming the adverse action.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7518. Further Administrative Appeal**

- A. A party may appeal an adverse decision issued by a hearing officer to the Department's Appeals Board, as prescribed in A.R.S. § 41-1992(C) and (D), by filing a written petition for review with the Office of Appeals within 15 days of the mailing date of the hearing officer's decision.
- B. The petition for review shall:
  - 1. Be in writing,
  - 2. Describe why the party disagrees with the hearing officer's decision, and
  - 3. Be signed and dated by the party or the party's representative.
- C. The party petitioning for review shall mail a copy of the petition to all other parties.
- D. The Office of Appeals shall have the proceedings of the hearing below transcribed for the Appeals Board.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7519. Appeals Board**

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. § 41-1992(D) and A.R.S. § 23-672.
- B. Following notice to the parties, the Appeals Board may receive additional evidence or hold a hearing if the Appeals Board finds that additional information would help in deciding the appeal. The Board may also remand the case to the Office of Appeals for rehearing, specifying the nature of the additional evidence required, or any further issues to be considered.
- C. The Appeals Board shall decide the appeal based solely on the record of proceedings before the hearing officer and any further evidence or testimony presented to the Board.
- D. The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision. The Board's decision shall specify the parties' rights to further review and the time for filing a request for review.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**R6-5-7520. Judicial Review**

Any party adversely affected by an Appeals Board decision may seek judicial review as prescribed in A.R.S. § 41-1993.

**Historical Note**

Adopted effective June 4, 1998 (Supp. 98-2).

**ARTICLE 76. REPEALED****R6-5-7601. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7602. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7603. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7604. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-7605. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7606. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7607. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7608. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).



**R6-5-7635. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7636. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7637. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7638. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-7639. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 77. REPEALED**

*Former Article 77 consisting of Sections R6-5-7701 through R6-5-7704 repealed effective November 8, 1982.*

**ARTICLE 78. REPEALED**

*Former Article 78 consisting of Sections R6-5-7801 through R6-5-7804 repealed effective November 8, 1982.*

**ARTICLE 79. REPEALED**

*Former Article 79 consisting of Sections R6-5-7901 through R6-5-7913 repealed effective November 8, 1982.*

**ARTICLE 80. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN****R6-5-8001. Goals**

Interstate services to children are provided to:

1. Achieve or maintain self-sufficiency including reduction or prevention of dependency.
2. Prevent or remedy abuse, neglect or exploitation of children, or preserve, rehabilitate or reunite families.
3. Prevent or reduce inappropriate institutional care.
4. Secure appropriate institutional care.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8002. Objectives**

Purpose of the Interstate Compact on the Placement of Children is to:

1. Promote cooperation of the member states in the interstate placement of children.
2. Establish procedures for the placement of children between member states.
3. Assure that the jurisdictional arrangements are made for the care of children who are placed across state lines.
4. Allocate legal and administrative responsibility during the period of an interstate placement.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8003. Authority**

A.R.S. §§ 8-503(6) and 8-548 through 8-548.06.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8004. Definitions**

- A. "Child." Any person under the age of 18.
- B. "Compact." The Interstate Compact on the Placement of Children.
- C. "Compact administrator." The Department employee who shall be general coordinator of activities under the compact in the state's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of the compact.
- D. "Compact state." A state which is a member of the Interstate Compact on the Placement of Children.
- E. "Department." The Arizona State Department of Economic Security.
- F. "Interstate placement." Any movement of a child from one state to another state for the purpose of establishing a suitable living environment and providing necessary care.
- G. "Intra-state placement." The placement of a child within the state by an agency of that state.
- H. "Placement." The arrangement for the care of a child in a foster home, relative home or adoptive home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic, or any institution primarily educational in character or any hospital or other medical facility.
- I. "Receiving state." The state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private person or agencies and whether for placement with state or local public authorities or for placement with private agencies or persons.
- J. "Sending agency"
  1. A compact member state, officer or employee thereof,
  2. A subdivision of a member state, officer or employee thereof,
  3. A court of a member state, or,
  4. A person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another member state.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8005. Placement Agreement**

- A. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state.
- B. No person, court or public or private agency in a compact shall place a child in another compact state until the Compact Administrator in the receiving state has notified the Compact Administrator in the sending state on a prescribed form that such placement does not appear to be contrary to the interests of the child and does not violate any applicable laws of the receiving state.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8006. Financial Responsibility**

The sending person, court or public or private agency shall be held financially responsible for:

1. Sending the child to the receiving state.
2. Returning the child if such should be required by the receiving state.

3. Support, care, maintenance and treatment of the child during the period of placement.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8007. Eligibility**

- A. Interstate Compact statute applies:
  1. To the placement of children in another compact state by an agency, court or person which has care or custody of the children.
  2. To the placement of foreign-born children who are brought under the jurisdiction of a compact state by an international child placing agency.
- B. Interstate Compact statute does not apply:
  1. When a child is sent or brought into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and is left with any such relative or non-agency guardian in the receiving state.
  2. When a child is placed in an institution caring for the mentally ill, mentally defective or epileptic or in any institution primarily educational in character or in any hospital or other medical facility.
  3. When a child is placed in a receiving state under the provisions of any other interstate compact to which both the sending and the receiving states are parties or any other agreement between the states which has the force of law.
  4. To the placement of children into and out of the United States when the other jurisdiction involved is a foreign country.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8008. Placement Approval**

Approval must be obtained from the Compact Administrators in both the sending and receiving states prior to the placement of a child in another compact member state.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8009. Case Management**

- A. Records and reports. Records shall be established and maintained and reports shall be submitted as prescribed by the Department.
- B. Confidentiality. The rules and regulations of the Department for securing and using confidential information concerning the client will be followed. Refer to Title 6, Chapter 5, Article 23 (Safeguarding of Records and Information).
- C. Civil rights. Refer to Title 6, Chapter 5, Article 26 (Civil Rights).

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**R6-5-8010. Terminating the Service**

The sending agency shall retain jurisdiction over a child placed in another state until responsibility for the child is discharged with the concurrence of the authority in the receiving state.

**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

**ARTICLE 81. REPEALED**

*Former Article 81 consisting of Sections R6-5-8101 through R6-5-8104 repealed effective November 8, 1982.*

**ARTICLE 82. REPEALED**

*Former Article 82 consisting of Sections R6-5-8201 through R6-5-8204 repealed effective November 8, 1982.*

**ARTICLE 83. REPEALED****R6-5-8301. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8302. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8303. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8304. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8305. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8306. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-35-8307. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8308. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 84. REPEALED**

*Former Article 84 consisting of Sections R6-5-8401 through R6-5-8404 repealed effective November 8, 1982.*

**ARTICLE 85. REPEALED**

*Former Article 85 consisting of Sections R6-5-8501 through R6-5-8508 repealed effective November 8, 1982.*

**ARTICLE 86. REPEALED****R6-5-8601. Repealed****Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1). Former Section R6-5-8601 repealed, new Section R6-5-8601 adopted effective March 8, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8602. Repealed****Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1). Former Section R6-5-8602 repealed, new Section R6-5-8602 adopted effective March 8, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).



**R6-5-8603. Repealed****Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1). Former Section R6-5-8603 repealed, new Section R6-5-8603 adopted effective March 8, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8604. Repealed****Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1). Former Section R6-5-8604 repealed, new Section R6-5-8604 adopted effective March 8, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 87. REPEALED****R6-5-8701. Repealed****Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8702. Repealed****Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8703. Repealed****Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-8704. Repealed****Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 88. REPEALED**

*Former Article 88 consisting of Sections R6-5-8801 through R6-5-8804 repealed effective November 8, 1982.*

**ARTICLE 89. RESERVED****ARTICLE 90. RESERVED****ARTICLE 91. REPEALED****R6-5-9101. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9102. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9103. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9104. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 92. REPEALED****R6-5-9201. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9202. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9203. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-9204. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 93. REPEALED**

*Former Article 93 consisting of Sections R6-5-9301 through R6-5-9304 repealed effective November 8, 1982.*

**ARTICLE 94. REPEALED**

*Former Article 94 consisting of Sections R6-5-9401 through R6-5-9404 repealed effective November 8, 1982.*

**ARTICLE 95. REPEALED**

*Former Article 95 consisting of Sections R6-5-9501 through R6-5-9504 repealed effective November 8, 1982.*

**ARTICLE 96. REPEALED**

*Former Article 96 consisting of Sections R6-5-9601 through R6-5-9604 repealed effective November 8, 1982.*

**ARTICLE 97. REPEALED**

*Former Article 97 consisting of Sections R6-5-9701 through R6-5-9704 repealed effective November 8, 1982.*

**ARTICLE 98. REPEALED**

*Former Article 98 consisting of Sections R6-5-9801 through R6-5-9804 repealed effective November 8, 1982.*

**ARTICLE 99. REPEALED**

*Former Article 99 consisting of Sections R6-5-9901 through R6-5-9904 repealed effective November 8, 1982.*

**ARTICLE 100. REPEALED**

*Former Article 100 consisting of Sections R6-5-10001 through R6-5-10004 repealed effective November 8, 1982.*

**ARTICLE 101. REPEALED**

*Former Article 101 consisting of Sections R6-5-10101 through R6-5-10104 repealed effective November 8, 1982.*

**ARTICLE 102. REPEALED**

*Former Article 102 consisting of Sections R6-5-10201 through R6-5-10204 repealed effective November 8, 1982.*

**ARTICLE 103. REPEALED**

*Former Article 103 consisting of Sections R6-5-10301 through R6-5-10304 repealed effective November 8, 1982.*

**ARTICLE 104. REPEALED**

**R6-5-10401. Repealed****Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10402. Repealed****Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10403. Repealed****Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10404. Repealed****Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 105. REPEALED****R6-5-10501. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10502. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10503. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**R6-5-10504. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).  
Repealed effective December 17, 1993 (Supp. 93-4).

**ARTICLE 106. REPEALED**

*Former Article 106 consisting of Sections R6-5-10601 through R6-5-10604 repealed effective November 8, 1982.*

**ARTICLE 107. REPEALED**

*Former Article 107 consisting of Sections R6-5-10701 through R6-5-10704 repealed effective November 8, 1982.*

**ARTICLE 108. REPEALED**

*Former Article 108 consisting of Sections R6-5-10801 through R6-5-10804 repealed effective November 8, 1982.*

**ARTICLE 109. REPEALED**

*Former Article 109 consisting of Sections R6-5-10901 through R6-5-10904 repealed effective November 8, 1982.*

**ARTICLE 110. REPEALED**

*Former Article 110 consisting of Sections R6-5-11001 through R6-5-11004 repealed effective November 8, 1982.*

**TITLE 6. ECONOMIC SECURITY****CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY  
STATE ASSISTANCE PROGRAMS**

(Authority: A.R.S. § 41-1954 et seq.)

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 03-3).**Editor's Note: Article headings and Sections of this Chapter were amended, renumbered, repealed, and adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Because these rules are exempt from the regular rulemaking process, the Chapter is printed on blue paper.***ARTICLE 1. TUBERCULOSIS CONTROL PROGRAM***Article 1, consisting of R6-13-102 through R6-13-161, made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).*

- R6-13-101. Reserved
- R6-13-102. Definitions
- R6-13-103. Individuals Who May Qualify for Assistance
- R6-13-104. Applicant Responsibilities at Initial Application
- R6-13-105. Department Responsibilities at Initial Application
- R6-13-106. Applicant Responsibilities at the Initial Interview
- R6-13-107. Agency Responsibilities at the Initial Interview
- R6-13-108. Processing the Initial Application
- R6-13-109. Case Record
- R6-13-110. Confidentiality
- R6-13-111. Manuals
- R6-13-112. Nonfinancial Eligibility Determination
- R6-13-113. Resource Limitations
- R6-13-114. Resource Verification
- R6-13-115. Availability and Ownership of Resources
- R6-13-116. Nonrecurring Lump-sum Payments
- R6-13-117. Treatment of Income; Overview
- R6-13-118. Income Exclusions
- R6-13-119. Determining Income Eligibility and a Cash Benefit Amount for an Assistance Unit
- R6-13-120. Determining Monthly Gross Income
- R6-13-121. Methods to Determine Monthly Income
- R6-13-122. Income Verification
- R6-13-123. Earned Income Deduction
- R6-13-124. Determining Income Eligibility and Cash Benefit Amount
- R6-13-125. Benefit Payments
- R6-13-126. Payment Method
- R6-13-127. EBT Card Issuance
- R6-13-128. EBT Alternate Card Holder
- R6-13-129. Change in Arizona Residency
- R6-13-130. Replacing Lost, Stolen, or Damaged Cards
- R6-13-131. Inactive Accounts; Unused Benefits
- R6-13-132. Supplemental Payments
- R6-13-133. Overpayments: Date of Discovery; Collection
- R6-13-134. Methods of Collection and Recoupment
- R6-13-135. Overpayment Calculation Date
- R6-13-136. Completion of Treatment
- R6-13-137. Eligibility Review
- R6-13-138. Requirement to Report Changes
- R6-13-139. Agency Responsibilities for Processing Changes
- R6-13-140. Reinstatement of Terminated Benefits
- R6-13-141. Notice of Adverse Action
- R6-13-142. Entitlement to a Hearing; Appealable Action
- R6-13-143. Computation of Time
- R6-13-144. Request for Hearing: Form; Time Limits; Presump-tions

- R6-13-145. Family Assistance Administration: Transmittal of Appeal
- R6-13-146. Stay of Adverse Action Pending Appeal
- R6-13-147. Hearings: Location; Notice; Time
- R6-13-148. Postponing the Hearing
- R6-13-149. Hearing Officer: Duties and Qualifications
- R6-13-150. Change of Hearing Officer; Challenges for Cause
- R6-13-151. Subpoenas
- R6-13-152. Parties' Rights
- R6-13-153. Withdrawal of an Appeal
- R6-13-154. Failure to Appear; Default; Reopening
- R6-13-155. Hearing Proceedings
- R6-13-156. Hearing Decision
- R6-13-157. Effect of the Decision
- R6-13-158. Further Administrative Appeal
- R6-13-159. Appeals Board
- R6-13-160. Judicial Review
- R6-13-161. Availability of TC Payments

**ARTICLE 2. APPLICATION AND CONTINUED  
ELIGIBILITY***Article 2, consisting of R6-13-201 through R6-13-207, R6-13-209, R6-13-211, R6-13-212, and R6-13-214 through R6-13-216, recodified from A.A.C. R6-3-201 through R6-3-207, R6-3-209, R6-3-211, R6-3-212, and R6-3-214 through R6-3-216, effective February 13, 1996 (Supp. 96-1).*

- Section
- R6-13-201. Application
- R6-13-202. Worker Responsibility
- R6-13-203. Home Visits
- R6-13-204. Applicant and Recipient Responsibility
- R6-13-205. Authorizing Assistance
- R6-13-206. Disposition of Application
- R6-13-207. Stopping, Suspending, or Changing the Assistance Grant
- R6-13-208. Reserved
- R6-13-209. Redetermination
- R6-13-210. Reserved
- R6-13-211. Recipients Absent from the State
- R6-13-212. Effective Date of Payment
- R6-13-213. Reserved
- R6-13-214. Change in Case Status
- R6-13-215. Supplemental Payments
- R6-13-216. Case Record

**ARTICLE 3. METHODS OF ELIGIBILITY  
DETERMINATION AND BUDGET PROCEDURES***Article 3, consisting of Sections R6-13-301 through R6-13-307, R6-13-309 through R6-13-311, R6-13-313 through R6-13-316, and R6-13-318 through R6-13-322, recodified from A.A.C. R6-3-301 through R6-3-307, R6-3-309 through R6-3-311, R6-3-313 through R6-3-316, and R6-3-318 through R6-3-322 effective Febru-*

ary 13, 1996 (Supp. 96-1).

#### Section

R6-13-301.	Expired
R6-13-302.	Verification of Eligibility
R6-13-303.	Verification of Age, Relationship, and Place and Date of Birth
R6-13-304.	Social Security Numbers
R6-13-305.	Residence
R6-13-306.	Citizenship
R6-13-307.	Expired
R6-13-308.	Reserved
R6-13-309.	Transfer of Sale of Homestead, Real, or Personal Property
R6-13-310.	Receipt of Other Public Assistance
R6-13-311.	Institutional Status
R6-13-312.	Reserved
R6-13-313.	Sources of Income, Their Treatment, and Disregards
R6-13-314.	Determining Monthly Income; Best Estimate
R6-13-314.01.	Methods to Determine a Best Estimate
R6-13-315.	Expired
R6-13-316.	Expired
R6-13-317.	Reserved
R6-13-318.	Budgeting
R6-13-319.	Consolidated Standards of Need
R6-13-320.	Policies Applicable to All Grants
R6-13-321.	Computing the Assistance Grant
R6-13-322.	Expired

#### ARTICLE 4. RESERVED

#### ARTICLE 5. RESERVED

#### ARTICLE 6. REPEALED

*Article 6, consisting of Sections R6-13-601 through R6-13-604, repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).*

*Article 6, consisting of Sections R6-13-601 through R6-13-604, recodified from A.A.C. R6-3-601 through R6-3-604 effective February 13, 1996 (Supp. 96-1).*

#### Section

R6-13-601.	Repealed
R6-13-602.	Repealed
R6-13-603.	Repealed
R6-13-604.	Repealed

#### ARTICLE 7. REPEALED

*Article 7, consisting of Section R6-13-701, repealed by exempt rulemaking at 9 A.A.R. 3966, effective October 20, 2003 (Supp. 03-3).*

*Article 7, consisting of Section R6-3-701, recodified from A.A.C. R6-3-701 effective February 13, 1996 (Supp. 96-1).*

#### Section

R6-13-701.	Repealed
------------	----------

#### ARTICLE 8. SHORT-TERM CRISIS SERVICES

*Article 8, consisting of Sections R6-13-801 through R6-13-809, amended, repealed, or renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, effective August 4, 1997 (Supp. 97-3).*

*Article 8, consisting of Sections R6-13-801 through R6-13-809, recodified from A.A.C. R6-13-801 through R6-3-809 effective February 13, 1996 (Supp. 96-1).*

#### Section

R6-13-801.	Definitions
R6-13-802.	Application Procedures

R6-13-803.	General Eligibility Requirements
R6-13-804.	Financial Eligibility Requirements; Countable Income
R6-13-805.	Emergent Need Eligibility Requirements
R6-13-806.	Types of Assistance; Duration
R6-13-807.	Payments
R6-13-808.	Notification
R6-13-809.	Complaints, Hearings, and Appeals

#### ARTICLE 9. REPEALED

*Article 9, consisting of Sections R6-13-902 through R6-13-911, R6-13-913 through R6-13-917, and R6-13-919 through R6-13-922, repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).*

*Article 9, consisting of Sections R6-13-901 through R6-13-622, recodified from A.A.C. R6-3-901 through R6-3-922 effective February 13, 1996 (Supp. 96-1).*

#### Section

R6-13-901.	Expired
R6-13-902.	Repealed
R6-13-903.	Repealed
R6-13-904.	Repealed
R6-13-905.	Repealed
R6-13-906.	Repealed
R6-13-907.	Repealed
R6-13-908.	Repealed
R6-13-909.	Repealed
R6-13-910.	Repealed
R6-13-911.	Repealed
R6-13-912.	Expired
R6-13-913.	Repealed
R6-13-914.	Repealed
R6-13-915.	Repealed
R6-13-916.	Repealed
R6-13-917.	Repealed
R6-13-918.	Expired
R6-13-919.	Repealed
R6-13-920.	Repealed
R6-13-921.	Repealed
R6-13-922.	Repealed

#### ARTICLE 10. RESERVED

#### ARTICLE 11. RESERVED

#### ARTICLE 12. OTHER PROCEDURES AND SERVICES

*Article 12, consisting of Sections R6-13-1201 through R6-13-1204 and R6-13-1206 through R6-13-1213, recodified from A.A.C. R6-3-1201 through R6-3-1204 and R6-3-1206 through R6-3-1213 effective February 13, 1996 (Supp. 96-1).*

#### Section

R6-13-1201.	Confidentiality
R6-13-1202.	Transfer of Cases Between Cost Centers
R6-13-1203.	State Warrants
R6-13-1204.	Guardianship
R6-13-1205.	Reserved
R6-13-1206.	Overpayments
R6-13-1207.	Special Investigations Unit
R6-13-1208.	Complaints, Hearings, and Appeals
R6-13-1209.	Quality Control
R6-13-1210.	Interagency Inquiry
R6-13-1211.	Quality Assurance
R6-13-1212.	Assistance to Individuals on Conditional Discharge from the Arizona State Hospital
R6-13-1213.	Expired

**ARTICLE 1. TUBERCULOSIS CONTROL PROGRAM****R6-13-101. Reserved****R6-13-102. Definitions**

The following definitions apply to this Chapter:

1. “Administration” means the Family Assistance Administration of the Department.
2. “Adverse action” means that the Department has:
  - a. Denied an application for assistance,
  - b. Failed to take action to approve or deny an application within 30 days of the application file date,
  - c. Terminated or reduced assistance,
  - d. Determined that it overpaid a Tuberculosis Control (TC) payment recipient, or
  - e. Denied a request for a waiver of an overpayment.
3. “Applicant” means a person who has directly or through a representative filed an application for TC payments with the Department.
4. “Assistance unit” means a group of persons whose needs, income, resources, and other circumstances the Department considers as a whole for the purpose of determining eligibility and benefit amount for Tuberculosis Control payments.
5. “CA” or “Cash Assistance” means temporary assistance for needy families paid to a recipient for the purpose of meeting basic living expenses under A.R.S. § 46-291 et seq.
6. “Collateral verification” means the use of an agency, organization, or qualified individual who has knowledge of the requested eligibility information, and who the Department may use as a collateral contact when requested to do so or when documented verification is not available to the applicant.
7. “Countable income” means income from every source minus income excluded under R6-13-118.
8. “Department” means the Arizona Department of Economic Security.
9. “FAA” or “Family Assistance Administration” means the administration within the Department’s Division of Benefits and Medical Eligibility responsible for providing financial and nutrition assistance to eligible persons and determining eligibility for medical assistance.
10. “FAA Manual” means the policies and procedures used to determine an assistance unit’s eligibility for TC payments.
11. “Homestead property” has the same meaning as A.R.S. § 46-101(14).
12. “In-kind income” means the value of goods or services received for work in lieu of the receipt of wages.
13. “Legal claim for support or care” means that the recipient has a duty under the law to look after or provide financially for the person with the legal claim for support or care.
14. “Lump-sum payment” means a single payment, such as retroactive monthly Social Security or other benefits, nonrecurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers’ compensation awards.
15. “Notice of adverse action” means a written notice sent to a recipient when the Department takes adverse action under R6-13-141.
16. “Office of Appeals” means the Department’s independent, quasi-judicial, administrative hearing body that includes hearing officers appointed under A.R.S. § 41-1992(A).
17. “Recipient” means a person who receives TC payments.

18. “Resources” means the assistance unit’s real and personal property and liquid assets.
19. “TC” means Tuberculosis Control, a program administered by the Department that provides monetary assistance to an assistance unit that includes an adult who is certified by the state Tuberculosis Control Officer to have active tuberculosis or suspected tuberculosis, and that satisfies the eligibility requirements in this Article.
20. “Vendor payment” means a payment from a person or organization that is not a member of an assistance unit to a third party to cover an assistance unit’s expenses.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-103. Individuals Who May Qualify for Assistance**

- A. The following persons are eligible for TC payments only if they meet all financial and nonfinancial eligibility requirements:
  1. An adult who is certified by the state Tuberculosis Control Officer to have active tuberculosis or suspected tuberculosis,
  2. Any person residing with the adult who has a legal claim for support or care from the adult, including:
    - a. The adult’s spouse; and
    - b. A minor child. Also, a child age 18 if attending a secondary school or a high school equivalency program;
    - c. A mentally or physically disabled child more than age 18; and
    - d. A child who is temporarily absent from the home because the child is attending school, as long as the child returns home at least once a year.
- B. A person may receive TC payments only if the individual is not eligible to receive Cash Assistance under A.R.S. Title 46, Chapter 2, Article 5.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-104. Applicant Responsibilities at Initial Application**

- A. A person shall apply for TC payments by submitting an identifiable Department-approved application to an FAA office in person, by mail, fax, or electronic transmittal.
- B. An identifiable application means an application that contains:
  1. The legible name and address of the applicant; and
  2. The signature of the applicant, the applicant’s representative, or if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
- C. The application filing date is the date an FAA office receives an identifiable application. If the applicant is eligible, the Department shall pay TC payments calculated from this date.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-105. Department Responsibilities at Initial Application**

- A. Upon receipt of an identifiable application, the Department shall:
  1. Date stamp the application with the application filing date, and
  2. Schedule an initial eligibility interview with the applicant at:

- a. A location that ensures a reasonable amount of privacy, or
  - b. A homebound applicant's residence, or
- 3. Schedule a telephone initial eligibility interview.
- B.** The Department shall assist the applicant in completing the application if necessary. A completed application shall contain:
  - 1. The names of all persons living in the applicant's dwelling and their relationship to the applicant,
  - 2. A request to receive TC payments, and
  - 3. All financial and nonfinancial eligibility information requested on the application form.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-106. Applicant Responsibilities at the Initial Interview**

- A.** The applicant shall attend the interview. A person of the applicant's choosing may also attend and participate in the interview with the applicant.
- B.** Missed appointments.
  - 1. If the applicant misses a scheduled appointment for an interview, the applicant shall:
    - a. Request to reschedule the interview no later than close of business on the day of the missed appointment, and
    - b. Attend the second scheduled appointment.
  - 2. If the applicant fails to comply with the requirements in subsection (B)(1)(a) or (b) without good cause, the Department shall deny the application, and the applicant shall reapply in order to receive TC payments. Good cause for failure to comply with the requirements in subsection (B)(1)(a) or (b) is any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the applicant to attend the interview or contact the local office.
- C.** An applicant for assistance shall:
  - 1. Give the Department complete and truthful information;
  - 2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility that occur after the date of application for TC payments;
  - 3. Comply with Electronic Benefit Transfer (EBT) requirements; and
  - 4. Comply with any other procedural requirements contained in this Chapter or in state or federal law.
- D.** An applicant shall provide required verification of financial and nonfinancial eligibility information or request assistance from the Department in obtaining the information.
  - 1. An applicant shall provide the Department with all requested verification of financial and nonfinancial eligibility factors, or request the Department's assistance in obtaining the requested verification, within 10 calendar days from the date of a written request for such information.
  - 2. An applicant shall provide the Department with verification of financial and nonfinancial eligibility factors by submitting to the Department:
    - a. Documents originating from an agency, organization, or individual qualified to have knowledge of the provided information; or
    - b. When documents required in subsection (D)(2)(a) are not available to the applicant, the name, telephone number, and address of an agency, organization, or individual qualified to have knowledge of

the requested eligibility information that the Department may use as a collateral contact; or

- c. When the items in subsections (D)(2)(a) and (b) are not available, a signed written statement from the applicant that describes facts specific to an eligibility factor. The Department shall not accept an applicant's signed written statement as acceptable verification of identity, relationship of household members, or expenses.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-107. Agency Responsibilities at the Initial Interview**

- A.** During the initial interview, a Department representative shall:
  - 1. Discuss how the applicant and the other assistance unit members previously met their needs and why they now need financial assistance;
  - 2. Provide the applicant with written information explaining:
    - a. The terms, conditions, and obligations of the TC program;
    - b. Any additional required verification information that the Department requires the applicant to provide in order to conclude the eligibility evaluation;
    - c. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES);
    - d. The coverage and scope of the TC program;
    - e. Related services that may be available to the applicant;
    - f. The applicant's rights, including the right to appeal adverse action;
    - g. The requirement to report all changes, as specified in R6-13-138, within 10 calendar days from the date the change becomes known; and
    - h. Other benefits for which any person in the assistance unit is potentially eligible and the requirement that any person in the assistance unit apply for and, if eligible, accept those other benefits;
  - 3. Inform the applicant that the Department shall assist the applicant in obtaining required verification at the request of the applicant, when the verification provided by the applicant is insufficient to complete an eligibility determination, or when the required verification is difficult or impossible for the applicant to obtain;
  - 4. Review the penalties for perjury and fraud, as printed on the application;
  - 5. Review any verification information provided with the application or at the initial interview;
  - 6. Review all ongoing reporting requirements and the potential consequences for failure to make timely reports, including overpayment liability; and
  - 7. Offer an applicant who is a United States citizen the opportunity to register to vote and provide the applicant with a voter registration form if requested.
- B.** The Department shall obtain independent verification or corroboration of information provided by the applicant when required by law, or when necessary to determine eligibility or benefit level.
- C.** The Department may verify or corroborate information by any reasonable means, including:
  - 1. Contacting third parties, such as employers;
  - 2. Asking the applicant to provide documented verification, such as billing statements or pay stubs;

## Department of Economic Security – State Assistance Programs

3. Asking the applicant to provide a signed written statement that describes facts specific to an eligibility factor when documented or collateral verification is not available;
4. Conducting a computer data match through SVES; and
5. Referring a case to the Department's Office of Special Investigations (OSI) for investigation when:
  - a. The Department has a valid reason to suspect that an act has been committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the amount of a benefit payment; or
  - b. The Department has a valid reason to suspect the commission of theft or fraud related to TC eligibility or payments, or any conduct listed in A.R.S. § 46-215.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-108. Processing the Initial Application**

- A. The Department shall complete the eligibility determination and benefit level computation within 30 calendar days of the initial application filing date, unless:
  1. The applicant withdraws the application. An applicant may withdraw an application at any time before the Department completes an eligibility determination by requesting the withdrawal from the Department either verbally or in writing.
    - a. If an applicant verbally requests to withdraw an application, the Department shall:
      - i. Document the names of individuals and the types of benefits or services from which the applicant wishes to withdraw, and
      - ii. Deny the application and notify the applicant.
    - b. A withdrawal is effective as of the date of initial application.
    - c. When an applicant withdraws an application, an applicant may file a new application to request TC payments.
  2. The applicant dies. If an applicant dies while the application is pending, the Department shall deny the application.
  3. The Department is aware of a delay in receiving verification of a required eligibility factor. In this case, the Department shall assist the applicant in obtaining the required verification, even if the delay extends beyond 30 days.
- B. The Department shall deny an application and send the applicant a written notice of denial that shall include an explanation of appeal rights when the applicant fails to:
  1. Complete the application under R6-13-105(B);
  2. Complete an eligibility interview under R6-13-106;
  3. Cooperate with all required Department procedures without good cause; however, the Department shall not deny the application for this reason unless the Department has advised the applicant of these procedural requirements in writing;
  4. Meet all of the mandatory financial and nonfinancial eligibility criteria used to establish eligibility for the TC program; or
  5. Meet the verification requirements in R6-13-106(D).

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-109. Case Record**

- A. The case record shall contain all data collected or used by the Department in evaluating and determining eligibility and benefit amount.
- B. The Department shall maintain a case record for every TC applicant or recipient. The case record shall include all documents maintained or stored in any format.
- C. Except as otherwise provided in subsections (D) and (E), the Department shall retain the case record for a period of three years after the last date the Department denied TC assistance to an applicant or terminated TC assistance to a recipient.
- D. The Department shall retain a case record that contains an unpaid overpayment until:
  1. The overpayment is paid back in full, or
  2. The Department no longer requires the assistance unit to repay the overpayment.
- E. The Department shall retain a case record that includes a disqualification imposed under A.R.S. § 13-3418, an Intentional Program Violation (IPV), or any other disqualification or sanction that prohibits the receipt of assistance.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-110. Confidentiality**

The Department shall maintain the confidentiality of a TC applicant's or recipient's records and limit the release of safeguarded information to the Department of Health Services and as prescribed under 6 A.A.C. 12, Article 1 and 9 A.A.C. 6, Article 1.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-111. Manuals**

The Department shall make the FAA Manual, as defined in R6-13-102, available to the public on the Department's web site, and each FAA office shall make the FAA Manual accessible for public inspection during regular business hours.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-112. Nonfinancial Eligibility Determination**

- A. Age. An applicant for TC payments shall be at least 18 years of age.
- B. Identity. An applicant for TC payments shall provide the Department with verification that reasonably establishes the applicant's identity.
  1. Verification that reasonably establishes identity includes:
    - a. A driver license or state-issued identification card that contains a photo of the applicant;
    - b. Documents such as the applicant's birth certificate, school identification card, citizenship and immigration documents, identification card from health benefits or other social service programs, wage stubs, work identification card, voter registration card, or other similar documents; or
    - c. Collateral verification, as defined at R6-13-102, from an individual who shall not benefit from the applicant's receipt of TC payments.
  2. An applicant's written statement is not sufficient verification of identity.
- C. Tuberculosis Certification. An applicant must be certified by the state Tuberculosis Control Officer to have active or suspected tuberculosis.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-113. Resource Limitations**

- A.** An applicant is not eligible for TC payments if the applicant has resources in excess of the following, after applying the exclusions in subsection (B):
1. \$1000 for an assistance unit consisting of only the applicant.
  2. \$1400 for an assistance unit consisting of the applicant and the applicant's spouse.
- B.** The Department shall exclude the equity value of the resources listed below:
1. The homestead property of the assistance unit, as defined in R6-13-102, not to exceed a current equity of \$50,000;
  2. Household furnishings that the assistance unit members use in their residence and personal effects essential for day-to-day living;
  3. The current equity value up to \$1500 of one vehicle in the assistance unit. When two or more vehicles are owned, the Department shall apply the exclusion to the vehicle with the highest equity value. Jointly owned vehicles with ownership records containing the word "or" between the owners' names are available in full to each owner unless it can be proven by the assistance unit member that the vehicle is not available to him or her or not in the assistance unit member's possession. When more than one owner is a member of an assistance unit, the equity value of the resource is counted only once;
  4. Funds established in connection with settling liability claims concerning Agent Orange death or disability; and
  5. Any other resource specifically excluded by law.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-114. Resource Verification**

The Department shall verify all resources.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-115. Availability and Ownership of Resources**

- A.** The Department shall consider a resource as countable to the assistance unit only when the resource is legally and physically available or in the possession of the assistance unit member.
- B.** The Department shall consider the availability of property to the assistance unit based on the type of ownership.
1. The sole and separate property of one spouse is available to the other spouse only when the spouse/owner makes the property available. A resource shall be considered sole and separate property only when obtained in one of the following ways:
    - a. Before the present marriage, or
    - b. At any time by gift or inheritance.
  2. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are deemed available when all owners can be located and consent to disposal of the resource, except that such consent is not required when all owners are members of the assistance unit.
- C.** The Department considers the following resources unavailable to the assistance unit:

1. Any resource owned solely by a spouse who is receiving Supplemental Security Income (SSI) paid by Title XVI of the Social Security Act.
2. Resources disputed in divorce proceedings or in probate matters.
3. Real property situated on a Native American reservation.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-116. Nonrecurring Lump-sum Payments**

- A.** The Department shall count nonrecurring lump-sum payments, as defined in R6-13-102, as a resource in the month received.
- B.** The Department shall count any part of a lump-sum payment that recurs in future months as income in the month received.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-117. Treatment of Income; Overview**

- A.** "Income" shall include the following when actually received by the assistance unit:
1. Gross earned wages from public or private employment before any deductions;
  2. In-kind income, as defined in R6-13-102;
  3. For self-employed persons, the sum of gross business receipts minus business expenses;
  4. Unearned monetary gains such as benefits or assistance grants, minus any deductions to repay prior overpayments or attorney fees; and
  5. A prorated share of any Cash Assistance program benefit received by the applicant's spouse.
- B.** In determining eligibility, the Department shall consider all gross income available to the assistance unit, except those types of income excluded under R6-13-118.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-118. Income Exclusions**

The Department shall not count the types of income in this Section when determining the income available to an assistance unit.

1. One-half of the countable income of the applicant's spouse;
2. One-half of the prorated share of any Cash Assistance program benefit received by the applicant's spouse;
3. Loans;
4. Educational grants or scholarships;
5. Income tax refunds;
6. The value of Nutrition Assistance (NA) program benefits and benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
7. Energy assistance payments or allowances provided under any federal, state, or local law, including Negative Rent Utility Payments issued by the Department of Housing and Urban Development for the purpose of energy assistance;
8. Vendor payments, as defined in R6-13-102;
9. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments that are not intended as wages;
10. Agent Orange payments;
11. Burial benefits that are dispersed solely for burial expenses;



## Department of Economic Security – State Assistance Programs

12. Reimbursements for work-related expenses that do not exceed the actual expense amount;
13. Insurance payments issued to repay a specific bill, debt, or estimate that cannot be used to meet basic daily needs such as housing, food, or other personal expenses;
14. Attorney fees that are included in the gross payment of industrial compensation paid under the workers' compensation law or in legal settlements;
15. In-kind income, as defined in R6-13-102;
16. Earned income received from employment through the Workforce Investment Act (WIA), including earnings received from on-the-job-training; and
17. Any other income specifically excluded by applicable state or federal law.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-119. Determining Income Eligibility and a Cash Benefit Amount for an Assistance Unit**

- A. To determine the countable monthly income of an assistance unit, the Department shall:
  1. Calculate a countable monthly gross income amount using the methods listed in R6-13-120, and
  2. Calculate a countable monthly net income by subtracting the applicable earned income deduction in R6-13-123 from the countable monthly gross income.
- B. The Department shall determine the cash benefit amount by subtracting the countable monthly net income from the TC Payment Standard for the number of eligible TC recipients in the assistance unit as prescribed in R6-13-124.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-120. Determining Monthly Gross Income**

- A. The Department shall calculate an assistance unit's countable monthly gross income by converting countable income received other than monthly into a monthly amount using the methods in R6-13-121.
- B. The Department shall include in its calculation all gross income from every source available to the assistance unit as provided in R6-13-117, unless specifically excluded in R6-13-118 or by federal or state law.
- C. The Department shall include in its calculation income that the assistance unit has received and reasonably expects to receive in a benefit month and that is based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and anticipated future circumstances.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-121. Methods to Determine Monthly Income**

- A. The Department shall convert income received in a regular amount on an ongoing basis into a monthly amount as follows:
  1. Multiply weekly amounts by 4.3,
  2. Multiply biweekly amounts by 2.15,
  3. Multiply semimonthly amounts by 2,
  4. Divide quarterly amounts by 3,
  5. Divide semiannual amounts by 6, and
  6. Divide annual amounts by 12.
- B. Averaging income.
  1. The Department shall average income for an assistance unit that receives income:
    - a. Irregularly; or

- b. Regularly, but from sources or in amounts that vary.
2. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.

**C. Prorating income.**

1. Except as provided in subsection (C)(2), the Department shall prorate income when an assistance unit receives income from a fixed-term employment contract in the following manner:
  - a. Income is prorated over the number of months the contract is intended to cover, unless the contract specifies piecemeal or hourly income.
  - b. Applicable earned income disregards apply as if the assistance unit received the prorated amounts in each month of the contract.
2. The Department shall count income in the month received using the income conversion methods in subsections (A) and (B) when the contract specifies that the assistance unit will receive income on a piecemeal or an hourly basis.

**D. Actual income.** The Department shall use the actual income of an assistance unit that:

1. Receives or reasonably expects to receive less than a full month's income from a new source,
2. Receives or reasonably expects to receive less than a full month's income from a terminated source of income, or
3. Is paid daily.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-122. Income Verification**

The Department shall verify all income as provided in R6-13-107 before determining eligibility and benefit amount.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-123. Earned Income Deduction**

For the purpose of determining the countable monthly net income in R6-13-119(A)(2) and for use in the TC Payment Standard Test as provided in R6-13-124, the Department shall deduct a \$24 work expense deduction from the countable monthly earned income of each employed person in the assistance unit.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-124. Determining Income Eligibility and Cash Benefit Amount**

- A. To determine income eligibility for a TC cash benefit, the Department shall:
  1. Establish whether to use an A-1 Standard or an A-2 Standard shelter cost factor to complete the financial determination.
    - a. The Department shall use the A-1 Standard when:
      - i. The assistance unit pays, or has an obligation to pay, all or part of the shelter costs for the place in which assistance unit members reside. Shelter costs include rent, mortgage, and property taxes;
      - ii. The assistance unit members reside in subsidized public housing; or
      - iii. A member of the assistance unit works in exchange for rent.

- b. The Department shall use the A-2 Standard:
  - i. For all circumstances not covered under subsection (A)(1)(a), or
  - ii. When an organization or a person who is not a member of the assistance unit pays shelter costs for three consecutive months or longer.
- 2. Conduct a TC Payment Standard Test.
  - a. Using the size of the assistance unit and the applicable A-1 or A-2 Standard, the Department shall compare the countable monthly net income to the applicable maximum TC cash benefit amount shown on the TC Payment Standard chart in subsection (A)(3).
  - b. If the countable monthly net income is at least one dollar less than the TC maximum cash benefit amount, the household is eligible for TC benefits. If the countable monthly net income is equal to or greater than the TC maximum cash benefit amount, the assistance unit is ineligible for TC benefits.
- 3. The TC Payment Standard Chart.

Number of Individuals	Maximum Monthly TC Cash Benefit For A-1 Standard (Based on 0 Countable Income)	Maximum Monthly TC Cash Benefit For A-2 Standard (Based on 0 Countable Income)
1	\$173	\$108
2	\$233	\$145
3	\$293	\$183
4	\$353	\$220
5	\$412	\$258
6	\$472	\$295
Each additional	\$60	\$38

- B. To determine the amount of the cash benefit payment:
  - 1. The Department shall deduct the countable monthly net income from the maximum cash benefit amount, as shown in the chart in subsection (A)(3), and round the difference down to the next whole dollar. The Department shall pay that amount to the assistance unit.
  - 2. The Department shall prorate the initial month's benefits by the number of days remaining in the month from the application filing date.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-125. Benefit Payments**

- A. The Department shall pay benefits to an assistance unit for each month in which the Department determines it to be eligible.
- B. The Department shall make benefits available no later than the 30th day following the date of application for the initial month, and on the first day of each month for which the assistance unit is eligible thereafter.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-126. Payment Method**

The Department shall provide benefit payments by making direct deposits into:

- 1. An Electronic Benefit Transfer (EBT) account established for the assistance unit by the Department, or

- 2. A financial institution account established by the recipient.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-127. EBT Card Issuance**

- A. The Department shall authorize access to an EBT account to:
  - 1. The recipient; or
  - 2. An EBT Alternate Card Holder, as provided in R6-13-128.
- B. The Department shall:
  - 1. Provide the recipient with a brochure that explains EBT usage,
  - 2. Inform the recipient that the EBT card will be issued to the recipient by mail,
  - 3. Provide the recipient with the EBT provider's Customer Service Hotline telephone number in order for the recipient to obtain a Personal Identification Number (PIN) and to report EBT account problems, and
  - 4. Inform the recipient about the availability of TC Direct Deposit into an open banking account and the process for establishing Direct Deposit.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-128. EBT Alternate Card Holder**

A recipient may designate up to two EBT Alternate Card Holders who shall have full access to the TC benefit available in the EBT account. The EBT Alternate Card Holder shall:

- 1. Receive his or her own EBT card by mail, and
- 2. Contact the EBT provider's Customer Service Hotline telephone number in order to obtain a Personal Identification Number (PIN).

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-129. Change in Arizona Residency**

When an assistance unit moves to another state, it is entitled to any benefits remaining in its EBT account. The assistance unit may obtain benefits by accessing the account with the EBT card before leaving Arizona or at an Automated Teller Machine (ATM) displaying the QUEST symbol in the assistance unit's new state of residence.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-130. Replacing Lost, Stolen, or Damaged Cards**

The assistance unit shall report a lost, stolen, or damaged EBT account access card as soon as possible, either by telephone to the EBT 24-hour Customer Service Hotline or to the Department during normal business hours.

- 1. Any funds removed from an EBT account prior to the assistance unit's reporting the card as lost or stolen will not be replaced.
- 2. When the client reports a lost, stolen, or damaged EBT account access card by telephone to the EBT 24-hour Customer Service Department, the EBT 24-hour Customer Service Department shall deactivate the EBT account access card and shall issue a new card by mail.
- 3. The Department shall issue a replacement card when the recipient reports having not received a new EBT account access card by mail by the close of business on the fourth

## Department of Economic Security – State Assistance Programs

workday following the date the recipient requested a replacement card from the EBT 24-hour Customer Service Department.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-131. Inactive Accounts; Unused Benefits**

The assistance unit shall retain the right to access the EBT account for one year from the original date of benefit availability, regardless of the status of the TC case.

1. If the assistance unit does not access an EBT account for 60 days, the Department shall notify the assistance unit in writing. The notice shall state that immediate access to the EBT account will terminate in 30 days unless the assistance unit contacts the Department or accesses the EBT account.
2. The assistance unit shall lose immediate access to any benefits in an EBT account that has been inactive for 90 days. To regain access to these benefits, the assistance unit shall contact the Department and request that it reinstate the assistance unit to the EBT account.
3. If the assistance unit has not accessed benefit payments in an EBT account for 365 days after the original date of availability, the Department shall recoup the benefits, and the assistance unit shall lose all rights to regain those benefits.
4. Upon the death of a TC payment recipient, the Department shall recoup from the EBT account any TC payments paid to the recipient after the month of the recipient's death.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-132. Supplemental Payments**

- A. The Department shall correct underpayments of TC assistance by issuing the assistance unit a supplemental payment regardless of whether the underpaid individual is eligible on the date the supplemental payment is issued.
- B. The Department shall not count such supplemental payments as a resource or as income.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-133. Overpayments: Date of Discovery; Collection**

An overpayment exists when an assistance unit receives a TC payment that exceeds the amount the assistance unit was eligible to receive.

1. The Department shall pursue collection of all overpayments under A.R.S. § 46-213.
2. The Department shall send the recipient a notice of overpayment within 90 days of the date of discovery. The date of discovery is the date the FAA has all of the information necessary to accurately calculate a potential overpayment and writes an overpayment report to the Department's Office of Accounts Receivable and Collections (OARC).
3. If the FAA suspects that fraudulent activity caused the overpayment, the FAA shall refer the potential overpayment to the Department's Office of Special Investigations (OSI) for further investigation and potential prosecution. The overpayment report may be delayed pending the outcome of the OSI investigation.

4. The Department's failure to comply with the time-frame in subsection (2) shall not affect the validity or collection of the overpayment.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-134. Methods of Collection and Recoupment**

- A. When an overpaid assistance unit is currently receiving benefits, the Department shall seek recovery using one or more of the following repayment methods:

1. Offset against any amounts underpaid to the assistance unit and due in the current month;
2. Cash payments;
3. Reduction in current benefits in an amount not to exceed 10% of the assistance unit's monthly payment, unless the assistance unit desires a larger reduction; or
4. A combination of the above methods.

- B. If the assistance unit is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-135. Overpayment Calculation Date**

When determining an overpayment amount, an assistance unit's overpayment period begins in one of the following:

1. The benefit month for which an initial TC payment is issued, when the assistance unit was ineligible for the amount of assistance paid; or
2. The first day of the second month following the month in which a change that caused the overpayment of the TC payment occurred.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-136. Completion of Treatment**

When the Department of Health Services notifies the FAA that an individual receiving TC payments has completed treatment for active or suspected tuberculosis, that individual is no longer eligible for TC payments.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-137. Eligibility Review**

- A. The Department shall complete a review of all eligibility factors for each assistance unit at least once every six months. The first eligibility review shall begin in the fifth month following the first month of TC eligibility.

- B. The Department shall mail, or otherwise transmit as provided by law, the recipient a notice 30 days prior to the Department's review date advising the recipient of the need for a review. The recipient shall file an application and complete a review interview by the date specified on the notice.

- C. The Department shall schedule and conduct a review interview in the same manner as an initial interview, described in R6-13-106.

- D. The Department shall verify the assistance unit's resources and income and any eligibility factors that have changed or are subject to change. The Department shall also verify with the state Tuberculosis Control Officer that the individual continues to have active or suspected tuberculosis and that the individual continues to receive treatment for that condition. The

Department may verify other factors if current verification is not in the case file.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-138. Requirement to Report Changes

- A.** The assistance unit shall report, verbally or in writing, all changes that have the potential to affect eligibility or the benefit amount within 10 days from the date the change becomes known. This includes changes to any of the following:
1. Residential address;
  2. Shelter expenses to establish the applicable A-1 or A-2 shelter cost factor used to complete the financial eligibility determination, described in R6-13-124;
  3. Sources and amounts of income, financial assistance, or any other assistance that provides help to the assistance unit members in meeting their needs;
  4. Disability and employability status of the TC payment recipient;
  5. Approval or denial of federal disability benefits by the Social Security Administration;
  6. Individuals residing in the home; and
  7. Types, sources, and amounts of resources.
- B.** The assistance unit shall provide any verification of changes requested in writing by the Department on or before the verification due date specified on the Department's request for verification, using the verification methods prescribed in R6-13-106.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-139. Agency Responsibilities for Processing Changes

- A.** The Department shall redetermine eligibility for TC benefits and, if applicable, recalculate a TC benefit amount when the assistance unit reports a change directly to the Department, when someone acting on behalf of the assistance unit reports a change, or if an automated system report reveals a change.
- B.** When a change results in either a decrease in the cash benefit or renders the assistance unit ineligible for TC payments, the Department shall effect the change within 10 days from the date the change was reported, when possible, using one of the following methods:
1. Reduce the benefit or terminate eligibility for the first possible month allowing time for notice of adverse action requirements prescribed in R6-13-141, without further verification, if there is sufficient and reliable information to effect the change; or
  2. Attempt to obtain verification by the 10th day from the date the change was reported when there is not sufficient information to effect the change without additional verification. The Department shall:
    - a. Send the assistance unit a written request for verification with a due date that is the 10th day from the date the verification is requested; and
    - b. Contact third parties to obtain the needed verification, when possible.
- C.** If the assistance unit fails to provide the requested verification by the due date and does not request assistance from the Department to obtain the verification, the Department shall terminate TC payments for the first possible month, allowing time for notice of adverse action requirements prescribed in R6-13-141.
- D.** When a reported change results in an increase in the cash benefit, the Department shall effect the increase only after the

change has been verified. The Department shall send the assistance unit a written request for verification with a due date that is 10 days from the date the Department mails the written request, or otherwise transmits the written request as provided by law.

1. When the assistance unit provides the requested verification on or before the due date, the Department shall increase the cash benefit for the first monthly payment issued after the date the change is reported.
2. When the assistance unit provides the requested verification after the due date, the Department shall increase the cash benefit for the first monthly payment issued after the date the verification is received.
3. When the assistance unit does not provide the requested verification, the Department shall not increase the cash benefit but shall continue issuing the current cash benefit amount.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-140. Reinstatement of Terminated Benefits

- A.** The Department shall reinstate terminated benefit payments within 10 calendar days when:
1. The Department terminated benefit payments in error,
  2. The Department receives a court order or administrative hearing decision mandating reinstatement, or
  3. The recipient timely files a request for fair hearing and requests continued benefits as provided in R6-13-146.
- B.** When a six-month review under R6-13-137 was not completed due to the termination of benefits, the Department shall conduct the review at the earliest opportunity following reinstatement.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-141. Notice of Adverse Action

- A.** A notice of adverse action shall contain:
1. The adverse action taken,
  2. The reason for the adverse action,
  3. The effective date of the adverse action,
  4. The name and telephone number of the Administration office to contact for additional information,
  5. The telephone number for free legal assistance, and
  6. The recipient's appeal rights.
- B.** Timely Notice of Adverse Action.
1. When the Department intends to reduce or terminate benefits, the Department shall provide the assistance unit with a timely notice of adverse action under this subsection, unless the reduction or termination is for one of the reasons in subsection (C).
  2. The Department shall mail the notice of adverse action by first-class mail, postage prepaid, or otherwise transmit the notice as provided by law, to the last known residential address for the assistance unit or other designated address for the assistance unit so that the Department can reasonably expect the assistance unit to receive the notice at least 10 days prior to the first day of the month in which the reduction or termination of benefits shall occur.
- C.** The Department may dispense with timely notice, but shall mail, first-class, postage prepaid, or otherwise transmit as provided by law, the notice of adverse action to the last known residential address for the assistance unit or other designated address for the assistance unit, so that the Department can reasonably expect the assistance unit to receive the notice no later

## Department of Economic Security – State Assistance Programs

than the first day of the month in which the reduction or termination of benefits shall occur, when:

1. A recipient makes a written or verbal request for termination,
2. A recipient is ineligible because of admission to a facility where the recipient's needs are being met. This includes:
  - a. Incarceration,
  - b. Long-term hospitalization when the recipient is not expected to return to the home, and
  - c. Institutionalization in a skilled nursing care or intermediate care facility,
3. The recipient's address is unknown,
4. The Department has verified that another state has accepted the recipient for assistance, or
5. An administrative tribunal or court of law has found that the recipient committed an Intentional Program Violation (IPV).

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-142. Entitlement to a Hearing; Appealable Action**

- A. An applicant or recipient who appeals an adverse action is entitled to request an administrative hearing to challenge the action as provided in this Article.
- B. An adverse action resulting from a uniform change in federal or state law is not appealable unless the Department misapplies the law to the person seeking the hearing.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-143. Computation of Time**

- A. In computing any time period:
  1. "Day" means a calendar day;
  2. "Workday" means Monday through Friday, excluding Arizona state holidays;
  3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
  4. The Department counts the last day of the designated time period unless it is a Saturday, Sunday, or Arizona state holiday.
- B. The Department deems a document that the Department mailed as given to the addressee on the date mailed, or otherwise transmitted as provided by law, to the addressee's last known address. The Department presumes that the mailing date is the date shown on the document unless the facts show otherwise.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-144. Request for Hearing: Form; Time Limits; Presumptions**

- A. A person who wishes to appeal an adverse action shall make a verbal or written request for a hearing to the FAA within 30 days of the date on the notice or letter advising the person of the adverse action. The FAA shall provide a form for this purpose and, upon request, shall help an appellant complete the form. If the person makes a verbal request for hearing, the FAA shall reduce the appeal and the stated reasons for the appeal to writing, record the date of the verbal request, and forward the request to the Office of Appeals.
- B. An appellant shall include the following information in the request for hearing:

1. Name, address, and telephone number of the individual subject to the adverse action;
  2. A description of the adverse action that is the subject of the appeal;
  3. The date of the notice of adverse action; and
  4. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.
- C. The Department shall process an appeal even if the request does not include all the information listed in subsection (B), as long as the request contains sufficient information for the Department to determine the identity of the appellant.
  - D. The Department deems a request for hearing filed on:
    1. The mailing date as shown by the postmark if the appellant sent the request by first-class mail, postage prepaid, through the United States Postal Service to the Department; or
    2. The date the Department actually receives the request, if not mailed as provided in subsection (D)(1).
  - E. A document is timely filed if the sender of the document can demonstrate that any delay in submission was due to any of the following reasons:
    1. Department error or misinformation,
    2. Delay or other action by the United States Postal Service, or
    3. Delay due to the appellant's changing mailing addresses at a time when the appellant had no duty to notify the Department of the change.
  - F. When the Office of Appeals receives a request for a hearing that the appellant did not timely file, the Office of Appeals shall schedule a hearing to determine whether the delay in submission is excusable, as provided in subsection (E).
  - G. An appellant whose appeal the Office of Appeals denies as untimely is entitled to petition for review of this issue as provided in R6-13-158.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-145. Family Assistance Administration: Transmittal of Appeal**

- A. The FAA shall notify the Office of Appeals of a request for hearing within two workdays of receipt of the request.
- B. No less than 10 workdays before the scheduled hearing date, unless otherwise ordered, the FAA shall send the Office of Appeals and the appellant a prehearing summary. The prehearing summary shall include, at a minimum:
  1. The appellant's name,
  2. The appellant's Social Security number,
  3. The local office that issued the adverse action under appeal,
  4. A brief summary of the facts leading to the adverse action, and
  5. The legal or Administration policy basis for the adverse action.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-146. Stay of Adverse Action Pending Appeal**

- A. The Department shall stay the implementation of the adverse action until the hearing officer renders a decision on the appeal, if the appellant makes a request to stay the adverse action within 10 days from the date the Department mails the notice of adverse action, or otherwise transmits the notice as provided by law, except in the following circumstances:

1. The appellant expressly waives the delay of adverse action,
  2. The adverse action is a result of a uniform change in federal or state law,
  3. The appellant is requesting continued benefits when the time period for which the Department has approved benefits has expired,
  4. The Department has denied the appellant's initial or renewal application,
  5. The appeal challenges an action that is not appealable according to R6-13-142(B),
  6. The appellant withdraws the request for hearing, or
  7. The appellant fails to appear for the hearing without good cause.
- B.** The Department shall extend the 10-day time period in subsection (A) if the appellant establishes good cause. Good cause includes any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the appellant to make the request as specified in subsection (A).

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-147. Hearings: Location; Notice; Time**

- A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing or permit a witness, upon request, to appear telephonically.
- B.** Unless the parties stipulate to another hearing date, the Office of Appeals shall schedule the hearing no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C.** The Office of Appeals shall mail, or otherwise transmit as provided by law, a notice of hearing to all interested parties at least 20 days before the scheduled hearing date.
- D.** The notice of hearing shall be in writing and shall include the following information:
1. The date, time, and place of the hearing;
  2. The name of the hearing officer;
  3. A general statement of the issues involved in the case;
  4. A statement listing the parties' rights as specified in R6-13-152; and
  5. A general statement of the hearing procedures.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-148. Postponing the Hearing**

- A.** A party may ask for postponement of a hearing by calling or writing the Office of Appeals and providing good cause as to why the Office of Appeals should postpone the hearing. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's counsel to attend the hearing on the scheduled date.
- B.** Except in emergency circumstances, the appellant shall ensure that the Office of Appeals receives the request for postponement at least five workdays before the scheduled hearing date. The Office of Appeals is entitled to deny an untimely request. Emergency circumstances mean circumstances:
1. Beyond the reasonable control of the party,
  2. That did not arise until after the five-day period, and
  3. That the party could not reasonably anticipate.
- C.** When the Office of Appeals reschedules a hearing under this Section, the Office of Appeals shall mail, or otherwise transmit as provided by law, the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-149. Hearing Officer: Duties and Qualifications**

- A.** An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
1. Administer oaths and affirmations;
  2. Regulate and conduct hearings in an orderly and dignified manner that avoids unnecessary repetition and affords due process to all participants;
  3. Ensure consideration of all relevant issues;
  4. Exclude evidence that is not competent, relevant, or material, or that is unduly repetitious from the record;
  5. Request, receive, and incorporate relevant evidence into the record;
  6. Subpoena witnesses or documents needed for the hearing upon compliance with the requirements of R6-13-151;
  7. Open, conduct, and close the hearing;
  8. Rule on the admissibility of evidence offered at the hearing;
  9. Direct the order of proof at the hearing;
  10. Upon the request of a party, or on the hearing officer's own motion, and for good cause shown, take action the hearing officer deems necessary for the proper disposition of an appeal, including the following:
    - a. Disqualify himself or herself from the case,
    - b. Continue the hearing to a future date or time,
    - c. Reopen the hearing to take additional evidence prior to the entry of a final decision,
    - d. Deny or dismiss an appeal or request for hearing in accordance with the provisions of this Article,
    - e. Exclude nonparty witnesses from the hearing room; and
  11. Issue a written decision resolving the appeal.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-150. Change of Hearing Officer; Challenges for Cause**

- A.** A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that shall include:
1. The case name and number,
  2. The hearing officer assigned to the case, and
  3. The name and signature of the party requesting the change.
- B.** The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the scheduled hearing date.
- C.** A party shall request only one change of hearing officer unless that party is challenging a hearing officer for cause under subsection (E).
- D.** A party may not request a change of hearing officer once the hearing officer has heard and decided a substantive motion except as provided in subsection (E).
- E.** At any time before a hearing officer renders a decision, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- F.** A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- G.** The hearing officer being challenged for cause may hear and decide the challenge unless:

1. A party specifically requests that another hearing officer make the determination, or
  2. The assigned hearing officer disqualifies himself or herself from the decision.
- H.** The Office of Appeals shall transfer the case to another hearing officer when:
1. A party requests a change as provided in subsections (A) through (D); or
  2. The hearing officer is removed for cause, as provided in subsections (E) through (G).
- I.** The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-151. Subpoenas**

- A.** A party who wishes to have a witness testify at a hearing or to offer a particular document or item in evidence shall first attempt to obtain the witness or evidence by voluntary means. Department documents are available to the appellant as prescribed in R6-13-152(2).
- B.** If the party cannot procure the voluntary attendance of the witness or production of the evidence, the party may ask the hearing officer assigned to the case to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence.
- C.** The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
1. The case name and number;
  2. The name of the party requesting the subpoena;
  3. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony;
  4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item;
  5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence; and
  6. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D.** A party who wants a subpoena shall ask for the subpoena at least five days before the scheduled hearing date.
- E.** The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is duplicative.
- F.** The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, electronic mail, or interoffice mail.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-152. Parties' Rights**

The claimant and the Department have the following rights:

1. The right to request a postponement of the hearing as provided in R6-13-148;
2. The right to copy before or during the hearing any documents in the Department's file on the appellant and documents the Department might use at the hearing, except

documents shielded by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;

3. The right to request a change of hearing officer as provided in A.R.S. § 41-1992(B) and R6-13-150;
4. The right to request subpoenas for witnesses and evidence as provided in R6-13-151;
5. The right to present the case in person or through an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, as provided in R6-13-158 and R6-13-160 if dissatisfied with a decision reached by the Office of Appeals.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-153. Withdrawal of an Appeal**

- A.** An appellant may withdraw an appeal at any time prior to the time the hearing officer renders a decision.
1. An appellant may withdraw an appeal verbally, either in person or by telephone. The Department may record the audio of the withdrawal.
  2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
- B.** The Office of Appeals shall dismiss the appeal upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or upon receipt of a statement of withdrawal made on the record when the hearing officer has accepted the withdrawal.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-154. Failure to Appear; Default; Reopening**

- A.** If an appellant fails to appear at the scheduled hearing, the hearing officer shall:
1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
  2. Rule summarily on the available record; or
  3. Adjourn the hearing to a later date and time.
- B.** The hearing officer shall not enter a default if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record.
- C.** A party who did not appear at a scheduled hearing date may file, no more than 10 days after a dismissal date, a request to reopen the proceedings. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
- D.** The hearing officer shall set the matter for a hearing to determine whether the appellant had good cause for failing to appear.
- E.** If the hearing officer finds that the party had good cause for failure to appear, the hearing officer shall reopen the proceedings and schedule a new hearing with notice to all interested parties as prescribed in R6-13-147.
- F.** Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party. Good cause also exists

when the nonappearing party demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. “Excusable neglect” has the meaning applied to “excusable neglect” as that term is used in Arizona Rules of Civil Procedure, Rule 60(c).

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-155. Hearing Proceedings

- A. The hearing is a de novo proceeding. The Department has the initial burden of going forward with evidence to support the adverse action being appealed.
- B. To prevail, the appellant shall prove, by a preponderance of the evidence, that the Department’s action was unauthorized, unlawful, or an abuse of discretion.
- C. The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 23-674(D).
- D. The Office of Appeals shall record all hearings. The Office of Appeals need not transcribe the proceedings unless a transcription is required for further administrative or judicial proceedings.
- E. The Office of Appeals charges a fee of 15¢ per page for providing a transcript. A party may obtain a waiver of the fee by submitting an affidavit stating that the party cannot afford to pay for the transcript.
- F. A party may, at his or her own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing. The Office of Appeal’s recording of the hearing shall constitute the official record of the hearing.
- G. The hearing officer shall call the hearing to order and dispose of any prehearing motions or issues.
- H. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- I. Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence.
- J. A party may testify, present evidence, and cross-examine adverse witnesses. The hearing officer may also take witness testimony or admit documentary or physical evidence on his or her own motion.
- K. The hearing officer shall keep a complete record of all proceedings in connection with an appeal.
- L. The hearing officer may require the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-156. Hearing Decision

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B. The hearing decision shall include:
  1. Findings of fact concerning the issue on appeal,

2. Citations to the law and authority applicable to the issue on appeal,
  3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions,
  4. The name of the hearing officer,
  5. The date of the decision, and
  6. A statement of further appeal rights and the time period for exercising those rights.
- C. The Office of Appeals shall mail, or otherwise transmit as provided by law, a copy of the decision to each party’s representative or to the party if the party is unrepresented.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-157. Effect of the Decision

- A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer’s decision.
- B. If the hearing officer vacates, sets aside, or reverses the Administration’s decision to take adverse action, the Administration shall not take the action or shall reverse any adverse action taken unless and until the Appeals Board, under A.R.S. § 23-672, or Arizona Court of Appeals issues a decision affirming the adverse action.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-158. Further Administrative Appeal

- A. A party can appeal an adverse decision issued by a hearing officer to the Department’s Appeals Board as prescribed in A.R.S. § 41-1992(C) and (D) by filing a written petition for review with the Office of Appeals within 15 days of the mailing date, or the transmittal date when transmitted in a manner other than by mail, as provided by law, of the hearing officer’s decision.
- B. The petition for review shall:
  1. Be in writing,
  2. Describe why the party disagrees with the hearing officer’s decision, and
  3. Be signed and dated by the party or the party’s representative.
- C. The party petitioning for review shall mail a copy of the petition to all other parties.
- D. The Appeals Board is not obligated to have the proceedings of the hearing transcribed.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### R6-13-159. Appeals Board

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. §§ 41-1992(D) and 23-672.
- B. Following notice to the parties, the Appeals Board may receive additional evidence or hold a hearing if the Appeals Board finds that additional information will help in deciding the appeal. The Appeals Board may also remand the case to the Office of Appeals for rehearing, specifying the nature of the additional evidence required or any further issues for consideration.



- C. The Appeals Board shall decide the appeal based solely on the record of proceedings before the hearing officer and any further evidence or testimony presented to the Appeals Board.
- D. The Appeals Board shall issue and mail, or otherwise transmit as provided by law, to all parties a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision. The decision of the Appeals Board shall specify the parties' rights to further review and the time for filing a request for review.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-160. Judicial Review**

Any party adversely affected by an Appeals Board decision may seek judicial review as prescribed in A.R.S. § 41-1993.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-161. Availability of TC Payments**

The availability of TC payments is subject to budgetary restrictions.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R.  
1175, effective June 30, 2012 (Supp. 12-2).

## ARTICLE 2. APPLICATION AND CONTINUED ELIGIBILITY

**R6-13-201. Application**

A person requests assistance or service by submission of a signed written application, verified by the applicant's oath upon forms prescribed by the Department of Economic Security.

1. Unrestricted opportunity to apply. Any person who desires assistance shall be given unrestricted opportunity to apply and a courteous interview.
2. Maintenance of personal dignity. All activity concerned with the eligibility determination process shall be conducted in a manner which enables the applicant to maintain his personal dignity and integrity.
3. Application process. When a person expresses a desire to apply for assistance, the person shall be given an application and an information pamphlet. The person will then be interviewed by an Eligibility Worker and an official application will be completed.
  - a. The applicant shall be informed that the applicant must make an official application which shall be completed, dated, and signed by the applicant or the applicant's authorized representative.
  - b. A place where the application can be completed shall be made available for the applicant.
  - c. If necessary, the applicant shall be given assistance to fill out the application. The applicant may be represented and assisted by an individual of the applicant's choice if the applicant desires.
  - d. The effective date of application is the date it is received in the local office.
  - e. Each applicant will be given an explanation of the right to appeal any action or failure to act by the Department.
  - f. Each new application will be reported within one working day from the time it is received.
  - g. To be eligible for any assistance program other than EA, a client must have a locational address and furnish clear instructions as to how the client's home can be located.

4. Concurrent assistance. An individual may apply for assistance from any available program but may not be an active recipient of assistance on more than one financial assistance program. However, a client may receive assistance concurrently on both the Tuberculosis Control (TC) and Aid to Families With Dependent Children (AFDC) programs.
5. Adding a person to an active AFDC case. A client who desires another person to be added to the person's active AFDC case must submit a written request. The effective date of the request is the date it is received in the local office.

**Historical Note**

R6-13-201 recodified from A.A.C. R6-3-201 effective  
February 13, 1996 (Supp. 96-1).

**R6-13-202. Worker Responsibility**

- A. Applications shall be decided upon within prescribed time limits except in unusual circumstances, in which instance the case record must show the cause for delay. Eligibility must be determined for SP, MAA and TC within 30 days; within 60 days for GA; and within 45 days for AFDC. If an application must pend beyond the prescribed time limit, the Department shall inform the applicant, in writing, of the reason for the delay and of the applicant's right to appeal.
- B. When an individual applies for assistance, the Eligibility Worker shall explain the functions, policies, programs and services of the Department. At the time of application and each redetermination, the Eligibility Worker shall also explain the penalties for withholding information, giving information, and fraud. The client shall be informed of the Department's responsibility to protect the confidential nature of information developed.
- C. The Eligibility Worker shall explain program eligibility requirements which must be verified.
- D. The Eligibility Worker shall explain resources available to the applicant, how the applicant has met basic needs in the past, and the reason the applicant needs assistance at this time. If applicable income exceeds the adjusted budgeted need, the assistance unit is ineligible for public assistance.
- E. Every AFDC applicant shall be informed that the applicant may apply for Social Services.

**Historical Note**

R6-13-202 recodified from A.A.C. R6-3-202 effective  
February 13, 1996 (Supp. 96-1).

**R6-13-203. Home Visits**

A home visit is mandatory prior to approval of an AFDC application and when redeterminations are made. On an Indian Reservation the home visit interview may take place at a location convenient to both the applicant and the Eligibility Worker.

1. A home visit may be made to any other time to obtain needed information.
2. An office visit can be arranged when necessary to develop referrals or obtain information.

**Historical Note**

R6-13-203 recodified from A.A.C. R6-3-203 effective  
February 13, 1996 (Supp. 96-1).

**R6-13-204. Applicant and Recipient Responsibility**

- A. An applicant for or recipient of assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The applicant for or recipient of assistance shall:
  1. Give the Department complete and truthful information;
  2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility or the amount

- of the assistance payment within 10 days from the date the change occurs; and
- 3. Comply with all the Department's procedural requirements.

**B.** The Department may deny an application for assistance, reduce or terminate benefits, or change the manner of payment if the applicant or recipient fails or refuses to cooperate without good cause. However, the Department shall not impose such sanctions for failure to comply with a procedural requirement about which the Department has not advised the applicant or recipient in writing.

#### Historical Note

R6-13-204 recodified from A.A.C. R6-3-204 effective February 13, 1996 (Supp. 96-1).

#### R6-13-205. Authorizing Assistance

The Department shall decide, according to policies and rules, if the applicant is eligible for the assistance applied for and shall determine the amount of assistance and the date upon which it shall begin. The applicant shall be notified of the decision in writing.

1. Assistance for the first month of eligibility will be made by a PAAR Fund check for all programs except TC. A PAAR check will not be issued if the applicant is found ineligible for all retroactive months, and the warrant processing deadline for the applicant's first month of eligibility can be met.
2. A PAAR check, charged to Emergency Assistance, may be written to meet the immediate needs of applicants whose applications are pending for categorical assistance, provided they are U.S. citizens or aliens lawfully admitted for permanent residence.
3. No restriction may be placed upon the manner in which the recipient spends the recipient's grant.
4. If a person is added to an active AFDC case in accordance with R6-13-201(A)(5), and that person is eligible for retroactive payments, supplemental payment will be issued for all eligible months as far back as, and including, the month the request was received in the local office, but not for any prior month.

#### Historical Note

R6-13-205 recodified from A.A.C. R6-3-205 effective February 13, 1996 (Supp. 96-1).

#### R6-13-206. Disposition of Application

- A.** Approval. When all eligibility requirements have been verified, assistance will be approved and an approval letter will be sent to the applicant.
- B.** Denial.
  1. When one or more points of ineligibility are found, assistance will be denied, and a denial letter will be sent to the applicant.
  2. All reasons for ineligibility found will be noted on the decision letter and reference made to the appropriate rules.
  3. An individual whose application has been denied may appeal within 15 days of the date of action.
- C.** Withdrawal. An applicant may withdraw the application at any time by written request. When an applicant voluntarily withdraws an application, the applicant's right to appeal is forfeited.
- D.** Other. An application may be disposed of if:
  1. The applicant has filed a duplicate application for the same type of assistance.
  2. The applicant leaves the state prior to determination of eligibility.
  3. The applicant has moved and cannot be located.

4. The applicant dies before the application is processed.
5. The applicant refuses to provide information necessary to determine eligibility or correct grant amount.

#### Historical Note

R6-13-206 recodified from A.A.C. R6-3-206 effective February 13, 1996 (Supp. 96-1).

#### R6-13-207. Stopping, Suspending, or Changing the Assistance Grant

- A.** Whenever circumstances require a reduction, suspension, or stopping of the assistance grant, a decision letter will be mailed to the recipient. With the exceptions listed under subsection (C) below, the recipient will be given 10 days' notice prior to the date of the proposed action.
- B.** With the exceptions listed under subsections (C) and (D) below, if a recipient requests a hearing within the 10-day period, the proposed action will not be taken until the hearing decision is published.
- C.** In the following instances the 10-day advance notice is not required, but a decision letter must be mailed prior to the effective date of action.
  1. The payee dies and, in AFDC cases, no emergency payee is available.
  2. The recipient requests termination in writing.
  3. The recipient is in an institution and ineligible.
  4. The recipient is placed in skilled nursing care, intermediate care, or long-term hospitalization.
  5. A recipient's address is unknown.
  6. A recipient has been accepted for assistance by another state, and this fact has been verified, or has become eligible for SSI and has received the recipient's first SSI benefit payment.
  7. An AFDC child is legally removed from the home or is voluntarily placed in foster care by the child's legal guardian.
  8. The sole issue is a change of state or federal law which requires automatic grant adjustments for classes of recipients.
  9. The recipient furnishes information in writing which results in suspension, reduction, or termination of assistance and the recipient is aware of the results.
- D.** The Department may deny or dismiss a request for a hearing as well as stop, suspend, or change the grant when:
  1. An ES-WIN deregistration occurred because the client refused to accept employment or participate in WIN without good cause.
  2. The client has failed to request a hearing within the 10 days advance notification period.
  3. The sole issue is a change of state or federal law which requires automatic grant adjustments for classes of recipients.
- E.** The Department may stop, suspend, or change the grant when:
  1. The request for a hearing has been withdrawn by the client in writing.
  2. The client or the client's representative failed to appear at the scheduled time of the client's hearing and has not requested rescheduling of the hearing.
- F.** A grant is suspended when there is a temporary period of ineligibility. Suspension shall not be used as a substitute for a case decision.
  1. A suspended case is to be considered as an active case.
  2. Whenever eligibility is re-established, the grant will be resumed and a decision letter sent.
  3. No case will be suspended longer than three consecutive months. If ineligibility continues past the third month, the case must be closed.

4. A case can be closed for financial (income) ineligibility only after the third consecutive month of suspension, and no sooner.

- G. If a hearing decision declares an improper denial or reduction of payment, the local office will authorize payments in compliance with the hearing decision.
- H. If it is not possible to complete a redetermination because the recipient failed to keep a necessary appointment or supply required information, notification of proposed stop or suspension of the grant will be mailed.

**Historical Note**

R6-13-207 recodified from A.A.C. R6-3-207 effective February 13, 1996 (Supp. 96-1).

**R6-13-208. Reserved****R6-13-209. Redetermination**

Redetermination of eligibility for AFDC, GA, and TC is required every six months and every 12 months for SP and MAA.

1. The Eligibility Worker will do a case study prior to redetermination to assure that all eligibility requirements have been satisfied and the assistance grant has been correct since the last redetermination.
2. Recipients are the primary source of information regarding eligibility. If they are unable to obtain information, the Department will assist.
3. A redetermination is not complete until the eligibility of the members of the assistance unit is verified and recorded in the case record.

**Historical Note**

R6-13-209 recodified from A.A.C. R6-3-209 effective February 13, 1996 (Supp. 96-1).

**R6-13-210. Reserved****R6-13-211. Recipients Absent from the State**

- A. To remain eligible for assistance, a recipient who leaves the state must file a statement of intent to return to Arizona and to retain Arizona residence and must also provide his current out-of-state address.
- B. The grant will be mailed out of Arizona no longer than 90 days. However, if the reason for absence is a medical problem of the recipient or a member of his family, and this is confirmed in writing by the licensed physician providing the treatment, the period may be extended. No grant will be mailed outside the United States.
- C. TC out-of-state payments must be authorized by the Department of Health Services.
- D. If the recipient indicates intent to establish residence in another state, the recipient will be advised that Arizona will discontinue assistance effective the month following the one in which he leaves.

**Historical Note**

R6-13-211 recodified from A.A.C. R6-3-211 effective February 13, 1996 (Supp. 96-1).

**R6-13-212. Effective Date of Payment**

The first payment shall be for the month in which all eligibility requirements were met, regardless of when the determination is made, providing a signed application for assistance was on file on or before that month. In cases where payment dates fall in a prior fiscal year, payments can be made only if administrative adjustment funds are available.

**Historical Note**

R6-13-212 recodified from A.A.C. R6-3-212 effective February 13, 1996 (Supp. 96-1).

**R6-13-213. Reserved****R6-13-214. Change in Case Status**

A change in case status must be acted upon within five working days.

**Historical Note**

R6-13-214 recodified from A.A.C. R6-3-214 effective February 13, 1996 (Supp. 96-1).

**R6-13-215. Supplemental Payments**

Supplemental payments will be made only if:

1. The Department failed to act upon information known to it at the time of the payment discrepancy or acted incorrectly, or
2. A hearing decision so orders, or
3. A person is added to an active case, or
4. A new application has been approved and the assistance unit is eligible for retroactive payments.
5. A suspended grant is being resumed retroactively.

**Historical Note**

R6-13-215 recodified from A.A.C. R6-3-215 effective February 13, 1996 (Supp. 96-1).

**R6-13-216. Case Record**

The case record is the documentation of financial, social, and medical information upon which eligibility and grant amounts are determined.

1. All categorical program folders will be color-coded.
2. Case folders shall be uniform throughout the state to facilitate location of documents.

**Historical Note**

R6-13-216 recodified from A.A.C. R6-3-216 effective February 13, 1996 (Supp. 96-1).

## ARTICLE 3. METHODS OF ELIGIBILITY DETERMINATION AND BUDGET PROCEDURES

**R6-13-301. Expired****Historical Note**

R6-13-301 recodified from A.A.C. R6-3-301 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 617, effective August 31, 2004 (Supp. 05-1).

**R6-13-302. Verification of Eligibility**

Sources of information. For the purpose of establishing eligibility, information may be secured from the following sources:

1. The client. The client is the principal source of information and is responsible, with the help of the Eligibility Worker, to provide basic information and documentation.
2. The case record. Documented information contained in case records concerning clients previously known to the Department may be used as verification.
3. Collateral sources. If it is necessary to contact another party to obtain information, written permission may be required from the client. If the client refuses to give written permission to the Department to enable it to secure information necessary to establish eligibility or correct grant amount, the client's application will be denied or the client's grant suspended or terminated in accordance with R6-13-206(D)(1)(e) and R6-13-207(H).
4. Public records. Information from public records may be obtained without the client's permission.
5. Other offices of the Department. Information may be secured from other offices or agencies of the Department without the client's permission (unless specially restricted).

**Historical Note**

R6-13-302 recodified from A.A.C. R6-3-302 effective February 13, 1996 (Supp. 96-1).

**R6-13-303. Verification of Age, Relationship, and Place and Date of Birth**

- A. Whenever verification of age, relationship, or place or date of birth is required to establish eligibility, documentation should be obtained for the case record.
- B. Examples of documentation which may be used to assist in establishing eligibility include:
  1. Civil and hospital birth certificates and registrations;
  2. Delayed birth certificates and registrations;
  3. Selective service or discharge papers from military service;
  4. Baptismal certificates or church records of confirmation;
  5. Bible records, family registers, or genealogical records;
  6. Marriage certificates or licenses;
  7. U.S. census records;
  8. Passports;
  9. Indian tribal census rolls. The Department may obtain this information for the client;
  10. Insurance papers;
  11. Newspaper records;
  12. Citizenship and naturalization documents;
  13. Other legal or official documents which serve to establish age, relationship, and place or date of birth.
- C. It shall be the sole responsibility of the client to obtain citizenship and naturalization documents. He shall be required to pay all fees necessary to obtain any documentation.

**Historical Note**

R6-13-303 recodified from A.A.C. R6-3-303 effective February 13, 1996 (Supp. 96-1).

**R6-13-304. Social Security Numbers**

- A. Every person in an assistance unit is required to furnish the person's Social Security Number (SSN).
- B. If the person cannot furnish an SSN, either because it is unknown or one has never been issued, the person is required to apply for one. The Department shall assist the individual to complete the application for a Social Security Number.
- C. If an applicant/recipient for the AFDC, SP, or MAA programs refuses to comply with the enumeration process (the verification and issuance of SSN's), either by refusal to apply for a number or by refusal to reveal the applicant's or recipient's number or have the number verified, the applicant or recipient will be sanctioned by removal of the applicant's or recipient's needs from the grant for each month of noncompliance.

**Historical Note**

R6-13-304 recodified from A.A.C. R6-3-304 effective February 13, 1996 (Supp. 96-1).

**R6-13-305. Residence**

Residence must be verified when it is an eligibility requirement. A person who lives in Arizona voluntarily with the intention of establishing a home is considered a resident of this state.

1. Arizona residency is an eligibility requirement for all Assistance Programs except TC and EA.
2. A child is a resident of the state in which the child resides with a specified relative on a permanent basis. However, a child may attend school out-of-state and remain eligible as long as the child remains in the care and custody of a caretaker relative who is an Arizona resident.
3. An Arizona resident who leaves the state to accept U.S. Government employment, or become an inmate of a public institution, retains Arizona residency during the absence. If an Arizona resident enters the U.S. Armed

Forces, residency may be retained until 30 days after separation.

**Historical Note**

R6-13-305 recodified from A.A.C. R6-3-305 effective February 13, 1996 (Supp. 96-1).

**R6-13-306. Citizenship**

Except for the TC Program, a recipient of assistance payments must be a citizen of the United States, an alien admitted to the United States for permanent residence, or permanently residing in the United States under color of law.

1. A person who was born in the United States must provide documentation.
2. A person who was born in the United States must provide one or more of the following:
  - a. Certificate of Citizenship;
  - b. Valid United States Passport;
  - c. Consular Report of Birth or "Certificate of Birth";
  - d. Proof of marriage to a U.S. citizen prior to September 22, 1922, provided other evidence establishes that the person was a U.S. citizen by birth or was naturalized before September 22, 1922;
  - e. An Identification Card issued from a Foreign Service Post;
  - f. Alien Registration Cards;
  - g. Citizen's Identification Card
3. The Department shall not contact the Immigration and Naturalization Service on behalf of the client.

**Historical Note**

R6-13-306 recodified from A.A.C. R6-3-306 effective February 13, 1996 (Supp. 96-1).

**R6-13-307. Expired****Historical Note**

R6-13-307 recodified from A.A.C. R6-3-307 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 617, effective August 31, 2004 (Supp. 05-1).

**R6-13-308. Reserved****R6-13-309. Transfer or Sale of Homestead, Real, or Personal Property**

A client must not have transferred or assigned real or personal property with the intent to render the client eligible or increase the client's need for assistance within five years prior to application or while a recipient.

1. Fair consideration.
  - a. Fair consideration received. If fair consideration was received for real or personal property sold or transferred, this will not adversely affect the client's eligibility and no inquiry will be made into the motive.
  - b. Fair consideration not received. If it is determined that a member of the assistance unit has refused or has not received fair consideration with intent to render the assistance unit member ineligible, starting from the month in which the transaction occurred, for as many months as the amount of the uncompensated value can be divided by the assistance unit's monthly unadjusted budgeted need.
2. Transfer of sale of homestead property.
  - a. Sale and reinvestment. If a client sells the client's homestead, the client will be given 90 days in which to reinvest the proceeds in another home. During that period the proceeds will not be counted as available income or as sets to meet need.

- i. If the proceeds are reinvested, any amount still remaining after the purchase of the second homestead will be considered as other assets and resources.
- ii. If, however, the client fails to reinvest the proceeds in another homestead within 90 days, at the end of that period the proceeds will be considered available assets and resources.
- b. Transfer for health reasons. A client may transfer homestead property with or without retention of life estate without adversely affecting his eligibility if it is determined that the property can no longer be used as a home because of health reasons.
- c. Evaluating life estate. The value of the life estate interest in a property will be determined by the appropriate instructions of this Article.

**Historical Note**

R6-13-309 recodified from A.A.C. R6-3-309 effective February 13, 1996 (Supp. 96-1).

**R6-13-310. Receipt of Other Public Assistance**

- A. A client may not receive public assistance from another state and from the state of Arizona concurrently.
- B. With the exception of the state Supplemental Payments Program (SSP), a client may not receive federal Supplemental Security Income (SSI) and assistance from the state of Arizona concurrently.
- C. With the exception of Aid to Families with Dependent Children (AFDC) combined with Tuberculosis Control (TC), an individual may not be an eligible recipient of assistance of more than one program.

**Historical Note**

R6-13-310 recodified from A.A.C. R6-3-310 effective February 13, 1996 (Supp. 96-1).

**R6-13-311. Institutional Status**

A person is ineligible for public assistance for each and every full calendar month in which the person is an inmate of a public institution. The only exception to this rule is the personal care allowance in the Tuberculosis Control (TC) program.

**Historical Note**

R6-13-311 recodified from A.A.C. R6-3-311 effective February 13, 1996 (Supp. 96-1).

**R6-13-312. Reserved****R6-13-313. Sources of Income, Their Treatment, and Disregards**

- A. Proceeds received from sale of non-homestead real property or personal property.
  - 1. Such proceeds will not be considered as income, but as a conversion of assets.
  - 2. Such proceeds will be subject to the limitation of real and personal property and financial assets.
- B. Proceeds received from sale of homestead property. Such proceeds will be considered in the method established by rules of this Article concerning the sale and transfer of property.
- C. Income received from rentals, leases, and room and board.
  - 1. One-third of the income from the rental or lease of any property, real or personal, shall be counted as income available to meet need. A lower figure is allowable, provided the client fully documents all expenses.
  - 2. One-third of the total proceeds received from furnishing room or room and board shall be counted as income available to meet need. A lower figure is allowable, provided the client fully documents all expenses.

- D. Income from self-employment. Income after expenses which is received from sale of goods or services rendered through self-employment shall be considered as income available to meet need.

- 1. Self-employed recipients of GA or AFDC will be given the scheduled cost of employment allowance for work expenses.
- 2. However, an AFDC recipient may claim a higher work expense figure if he can furnish documentation to verify all income received and expenses claimed.

- E. Contributions from relatives, stepparents, other individuals, or non-charitable organizations.

- 1. The first \$50 of money contributions received by the assistance unit from these sources in any given calendar month will be totally disregarded. However, any amount in excess of \$50 must be considered as available income.
- 2. Commodity contributions and free services rendered shall not be evaluated or considered as income available to meet need. However: If the cost of an assistance unit's shelter is fully paid on an ongoing basis directly to the landlord or lienholder by another person, the contribution will not be considered as income, but the assistance unit will be considered as living rent-free.
- 3. Contributions from a co-tenant for the purpose of rent-sharing shall be disregarded.

- F. Reserved.

- G. Dividends, interest, and royalties.

- 1. Dividends or interest from stocks, notes, mortgages, and bonds, as well as all royalties, shall be considered income available to meet need. When any such assets are sold or cashed, the proceeds will be considered as converted assets in accordance with R6-13-313(A), and not as income.
- 2. Interest on all U.S. Government savings bonds will be considered, along with the principal value, as an available asset and not as income. When cashed, the proceeds will be considered as converted assets in accordance with R6-13-313(A) and not as income.
- 3. Interest on all savings accounts and other interest-bearing accounts will be considered, along with the principal, as available assets and not as income. Withdrawals from such interest-bearing accounts, as well as withdrawals from all non-interest-bearing accounts (such as checking accounts) will be considered as converted assets in accordance with R6-13-313(A), and not as income.
- 4. Deposits made by any party not a member of the assistance unit into any savings, checking, or other account belonging to a member of the assistance unit, will be considered as income in accordance with the appropriate provisions of this Article.

- H. Income from provisions of foster care, day care, or house-keeping services.

- 1. If the Department pays a person, either in part or in full, for provision of day-care or foster-care services, the entire payment, including that portion paid by the Department and that paid by the private individual or organization, will be totally disregarded as income.
- 2. If a private individual or organization pays a person for providing foster or day-care services (including baby-sitting), but with no participation of the Department in the payment, the amount received will be considered as earned income subject to all appropriate disregards.
- 3. If the Department pays a person for providing housekeeping services, either as a provider under Social Services Title XX, or as a provider to an eligible SP recipient as

- specified by R6-3-603(A)(3), the payment will be totally disregarded as income.
4. Payment for housekeeping services for which payment is not provided by the Department will be considered as earned income subject to all appropriate disregards.
- I. Social Security benefits.**
1. Referral to SSA. Every applicant or recipient should be screened for possible eligibility for Social Security benefits. Every client who could qualify for SSA benefits is required to apply for them within 30 days of notification of this requirement.
  2. Availability of SSA income.
    - a. The SSA benefit of an adult is to be considered as income available to the adult, to the adult's spouse, and to the adult's own natural or adoptive children.
    - b. The SSA benefit of a minor child is to be considered as sole and separate income to meet the needs of that child only.
    - c. If a person receives SSA and SSI concurrently, the person is ineligible for state assistance (except SP), and none of the person's income is available to the eligible members of the assistance unit.
- J. Veterans Administration benefits.**
1. Availability of VA income. VA benefits shall be considered as income available to meet the needs of the VA beneficiary and all the beneficiary's legal dependents (i.e., the spouse and natural or adoptive minor children).
  2. Referral to VA. If there is a veteran in the assistance unit who is disabled and claims the veteran does not receive benefits, or a dependent of a veteran who claims the veteran does not receive benefits, the veteran will be referred to the nearest VA office and required to apply for VA benefits within 30 days of notification of this requirement.
- K. Industrial Compensation benefits.**
1. Availability of IC benefits. All temporary or permanent Industrial Compensation benefits shall be considered as income available to meet the needs of the IC beneficiary and of all legal dependents. Legal fees withheld by attorneys handling IC claims cannot be disregarded.
  2. Referral to IC. If there is reason to believe that the client may be eligible for IC benefits, the client shall be referred to the Industrial Commission and required to apply for them within 30 days of notification of this requirement.
- L. Railroad Retirement benefits.**
1. Referral for RR benefits. An individual with 10 years or more of railroad employment has vested rights in Railroad Retirement benefits and may also be eligible for Social Security benefits. If it appears that a client may be eligible for Railroad Retirement benefits, the client shall be required to apply for them within 30 days of notification of this requirement.
  2. Availability of RR benefits. Railroad Retirement benefits shall be considered as income available to meet the needs of the RR beneficiary and of all the beneficiary's legal dependents.
- M. Unemployment Insurance benefits.**
1. Referral for UI benefits. If it appears that a client may be eligible for any type of Unemployment Insurance, the client will be required to apply for such benefits within 30 days of notification of this requirement. Various types of UI benefits include:
    - a. Unemployment Insurance (UI) administered by the Department,
    - b. Veterans' unemployment compensation (UCX) administered by the Department,
    - c. Federal employees' unemployment compensation (UCFE) administered by the Department,
    - d. Railroad unemployment benefits administered by Railroad Retirement offices,
    - e. Unemployment benefits administered by labor organizations and private insurance companies.
  2. Availability. UI benefits are available income to the UI beneficiary and to the beneficiary's legal dependents.
- N. Public and private retirement pensions and annuities.** The following types of benefits shall be considered as income available to meet need:
1. Federal, state, and local government retirement pensions;
  2. Pensions from private industry;
  3. Retirement benefits or annuities from insurance plans.
- O. Income received while attending Arizona Training Center for the Handicapped, Inc.** Income received by a client during evaluation, training, or rehabilitation at the Arizona Training Center for the Handicapped, Inc., shall be considered as available to meet need and as earned in a "sheltered workshop".
- P. Reserved.**
- Q. Child's sole and separate income.** Legally sole and separate income of a minor child, which is not otherwise disregarded or provided for in this Article, will be counted as income available to meet the needs of that child only. Child support income will be treated in accordance with Title IV-D regulations as specified in 6 A.A.C. 12, Aid to Families with Dependent Children.
- R. Bureau of Indian Affairs work-study benefits.**
1. Living expenses provided to the client under this program shall be considered as income available to meet need.
  2. However, educational expenses paid directly to this school or college are to be totally disregarded.
- S. Earned income from private or public employment.** Earned income from public or private employment shall be considered as available to meet the needs of the wage earner and of all the wage earner's legal dependents (i.e., of the spouse and of the natural or adoptive minor children).
- T. Earned "income-in-kind".** Goods, services, or rent reductions in exchange for services which are received as earned income-in-kind shall not be counted as income available to meet need. Rent reductions are income-in-kind. If a client performs services for a landlord in lieu of paying all or part of the client's rent obligation:
1. The value of the in-lieu rent will not be considered as available income, and
  2. The client will be entitled to an A-1 budget standard.
  3. The client, if certified disabled, will not be declared employable solely on the basis of performing such services.
- U. Income received as child support payments.** Child support shall be treated in accordance with Title IV-D regulations as specified in 6 A.A.C. 12, Aid to Families with Dependent Children.
- V. Reserved**
- W. Reserved**
- X. Reserved**
- Y. Reserved**
- Z. Types of income which are totally disregarded.**
1. Income earned by a child under age 14.
  2. Income earned by a child receiving AFDC who is either
    - a. A full-time student, whether working full- or part-time, or
    - b. A part-time student, providing the student is working only part-time. Thus:
    - c. If a part-time student is at the same time a full-time employee, the student's total earnings (less allow-

## Department of Economic Security – State Assistance Programs

- able disregards) shall be counted as income available to meet the student's needs.
3. The \$30 monthly income payment to WIN participants in institutional and work experience training.
  4. Training-related expense payments made to WIN participants.
  5. Judgment funds (per capita payments) paid to, or held in trust for, Indians as a judgment of the Indian Claims Commission or court of claims. If such funds are invested, any interest, dividends, etc., shall be considered as income available to meet need.
  6. Benefits paid to Alaskan natives under the Alaska Native Claims Settlement Act, to the extent they are exempt from taxation.
  7. Payments made to volunteers participating in the Volunteers in Service to America (VISTA) program.
  8. Payments made to volunteers participating in the Service Corps of Retired Executives (SCORE) program.
  9. Payments made to volunteers participating in the Active Corps of Engineers (ACE) program.
  10. Benefits received by persons over age 60 under the Nutrition Program for the Elderly, the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Older Americans Community Service Program.
  11. Reserved
  12. Reserved
  13. Reserved
  14. Educational grants, loans, and scholarships:
    - a. Grants, loans, or assistance made or insured by the Commissioner of Education under the Higher Education Act for undergraduate study are to be totally disregarded. These include:
      - i. Work-Study Program assistance, including college work-study, as well as any income earned by the student while in these programs;
      - ii. National Direct Student loans (formerly National Defense Education Act loans), and Guaranteed Student loans;
      - iii. Job Corps income;
      - iv. Basic Educational Opportunity Grants (BEOG);
      - v. Supplementary Educational Opportunity Grants (SEOG);
      - vi. OASDI Benefits paid to or for a child age 18 to 21 which are conditioned upon regular attendance at a school, college, university, or in a course of vocational or technical training designed to enable the child to become self-supporting;
      - vii. That portion of a Veterans Educational Assistance Program Grant (G.I. Bill or other) which is for the student only. However, any portion for the student's dependents (family subsistence) is countable income.
    - b. For any other scholarship or educational grant (that is, one not made through the Commissioner of Education), that portion designed for tuition, books, student fees, and all other education-related expenses is to be totally disregarded. However, that portion, if any, designated to meet current living needs is to be considered as income available to meet need. Student loans will be totally disregarded.
  15. The "Bonus Value" of FNS food stamp coupons.
  16. The \$30 weekly incentive payment to participants in the Comprehensive Employment and Training Act (CETA) program.
  17. Payment received from the sale of real property for public purpose under Title II of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. If such funds are invested, any interest, dividends, etc. shall be considered as available income.
  18. Charitable contributions from recognized charitable institutions or foundations.
  19. Commodity contributions and free services rendered.
  20. Reserved
  21. Reserved
  22. Vocational Rehabilitation Program (DVR) payments made as reimbursements for training-related expenses incurred by the client, as well as all other VR subsistence allowances, but not salary earned from VR-sponsored OJT or other VR-sponsored employment.
  23. The value of supplemental food assistance received under the Child Nutrition Act of 1966, and special food services for children under the National School Lunch Act.
  24. Any commercial loan from a bank or licensed loan company.
  25. Any governmental home-improvement loan.
  26. Tax refunds. Such refunds are to be treated as an available asset.
  27. Personal loans, if property documented, from friends, relatives, or others.

**Historical Note**

R6-13-313 recodified from A.A.C. R6-3-313 effective February 13, 1996 (Supp. 96-1).

**R6-13-314. Determining Monthly Income; Best Estimate**

- A. For each assistance unit, the Department shall calculate a best estimate of monthly income using the methods described in R6-13-314.01.
- B. The best estimate shall include income which the assistance unit has received or reasonably expects to receive in a benefit month and shall be based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and future circumstances.
- C. The Department shall include in its calculation all gross income from every source available to the assistance unit unless specifically excluded in this Article or by the federal Social Security Act.
- D. The Department shall convert income received more frequently than monthly into a monthly amount as follows:
  1. Multiply weekly amounts by 4.3,
  2. Multiply bi-weekly amounts by 2.15,
  3. Multiply semi-monthly amounts by 2,
  4. Convert daily wages to a weekly average and multiply by 4.3.
- E. The Department shall determine a new best estimate of income:
  1. At each review; and
  2. When there is a change in countable income of more than \$25 which is expected to:
    - a. Last beyond the month the change occurred, or
    - b. Result in an increase in benefits.

**Historical Note**

R6-13-314 recodified from A.A.C. R6-3-314 effective February 13, 1996 (Supp. 96-1).

**R6-13-314.01. Methods to Determine a Best Estimate**

- A. The Department shall determine a best estimate of monthly income for an assistance unit by the methods described in this Section.
- B. Anticipating income.

1. When using this method, the Department shall consider income the assistance unit actually receives and is reasonably certain to receive in a benefit month.
  2. The Department shall anticipate income for an assistance unit which:
    - a. Regularly receives income from the same source and in the same amount;
    - b. Receives or reasonably expects to receive income from a new source;
    - c. Receives or reasonably expects to receive income from a continuing current source but at a new rate of pay;
    - d. Receives income on a seasonal or intermittent basis; or
    - e. Has lost a source of income.
- C. Averaging income.**
1. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
  2. The Department shall average income for an assistance unit which receives income:
    - a. Irregularly, or
    - b. Regularly but from sources or in amounts which vary.
- D. Prorating income.**
1. When using this method, the Department shall average income over the period of time the income is intended to cover.
  2. The Department shall prorate income for an assistance unit which receives income which is intended to cover a fixed period of time.
    - a. When a person receives income pursuant to a fixed-term employment contract:
      - i. Income shall be counted in the month received, if received monthly or more often, throughout all months of the contract;
      - ii. Income shall be prorated over the number of months in the contract if payment is received before or during the time work is performed but not as specified in subsection(D)(2)(a)(i) above;
      - iii. Income shall be prorated over the number of months in the contract if payment is received upon completion of the work;
      - iv. For AFDC cases which fall within subsection (D)(2)(a)(iii) above, applicable earned income disregards shall apply as if the prorated amounts were received in each month of the contract. The resulting amounts for each month shall then be totaled and counted in the month received as a lump sum pursuant to 45 CFR 233.20(a)(3)(ii)(F) (October 1992), incorporated by reference and on file with the Office of the Secretary of State;
      - v. For the purpose of this subsection, the term “applicable earned income disregards” shall include those earned income disregards set forth in 45 CFR 233.20(a)(11) (October 1992), incorporated herein by reference and on file with the Office of the Secretary of State.
    - b. When a GA or TC benefit recipient who is attending a college, university, or other school with a semester or quarter system receives income from a non-excluded scholarship, deferred educational loan, or other educational grant, the income from such a

source shall be prorated over the number of months in the semester or quarter for which the income is intended.

#### Historical Note

R6-13-314.01 recodified from A.A.C. R6-3-314.01 effective February 13, 1996 (Supp. 96-1).

#### R6-13-315. Expired

#### Historical Note

R6-13-315 recodified from A.A.C. R6-3-315 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

#### R6-13-316. Expired

#### Historical Note

R6-13-316 recodified from A.A.C. R6-3-316 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

#### R6-13-317. Reserved

#### R6-13-318. Budgeting

The Department shall determine eligibility and compute the amount of the assistance for a benefit month based on the best estimate described in R6-13-314 of income and circumstances which will exist in that same month.

#### Historical Note

R6-13-318 recodified from A.A.C. R6-3-318 effective February 13, 1996 (Supp. 96-1).

#### R6-13-319. Consolidated Standards of Need

- A. Consolidated standards.** Grants for AFDC, GA and TC are computed by using one of two consolidated standards of need: The A-1 standard of the A-2 standard.
- B. The A-1 standard**
  1. The A-1 standard will be used for assistance units which have the obligation to pay, or do pay -- either in part or in full -- any of the following housing expenses:
    - a. Rent;
    - b. Room, or room and board (but not board alone);
    - c. Mortgage or other lien on homestead;
    - d. Property tax on homestead;
    - e. Any city, county, or state fee or tax on property used as residence (such as trailer parking permit or similar).
  2. The obligation pay, or the payment, must be at least in part cash (not solely in kind).
  3. The person who is obligated to pay, or who does pay, may be any member of the assistance unit, whether eligible or ineligible for the month. The definition of an assistance unit and its members is found in R6-13-320(F).
  4. The A-1 standard must also be used if:
    - a. The assistance unit resides in public housing under HUD Sections 8 or 23, or
    - b. The payee or his spouse is an SSI recipient.
- C. The A-2 standard.** The A-2 standard will be used for:
  1. Assistance units without any obligation to pay any of the housing expenses listed in subsection (B)(1) above; or
  2. Assistance units whose housing expense is paid only in-kind, with no part in cash; or
  3. When the housing expense is fully paid, on an ongoing basis, by a person not a member of the assistance unit, directly to the landlord or lienholder. Such payments will be considered ongoing if they have been so paid for at least three consecutive months.



**Historical Note**

R6-13-319 recodified from A.A.C. R6-3-319 effective February 13, 1996 (Supp. 96-1).

**R6-13-320. Policies Applicable to All Grants**

- A. The minimum assistance grant authorized is \$1.
- B. Grants will be made in whole dollar amounts and will be rounded upward to the next whole dollar amount.
- C. An SSI recipient and the recipient's needs, income, and resources shall not be considered in computing an AFDC, GA, or TC grant.
- D. Emergency assistance paid to an applicant in any given month shall be deducted from the assistance grant for that month.
- E. If the applicable income of an assistance unit meets or exceeds its adjusted need for that month, the assistance unit will be determined to be financially ineligible for assistance.
- F. Each assistance unit and program will be budgeted separately, regardless of the number of assistance units residing together.
  1. An "assistance unit" is defined as an applicant-payee plus all those persons for whom the applicant-payee can request and receive assistance in accordance with the "specified relative" provisions of R6-3-407.
  2. Whenever two or more persons eligible for assistance can be included in one single assistance unit and grant as defined above, two or more separate assistance units and grants cannot be authorized.

**Historical Note**

R6-13-320 recodified from A.A.C. R6-3-320 effective February 13, 1996 (Supp. 96-1).

**R6-13-321. Computing the Assistance Grant**

Factors determining grant amount. The following factors enter into a budget computation to determine eligibility and/or grant amount:

1. Status. The status of the assistance unit, which consists of:
  - a. Program. The program for which assistance is requested or received (AFDC, GA, or TC);
  - b. Persons. The total number of persons in the assistance unit whose eligibility is being considered;
  - c. Standard. The standard of need, determined by shelter-cost obligation (A-1 or A-2);
2. Need. The budgeted need of the assistance unit for a given month, as determined by its status (program, persons, and standard);
3. Percentage. The percentage factor, which converts budgeted need to adjusted need, and which depends on the program;
4. Income. The countable income of the assistance unit;
5. Disregards. Applicable disregards on countable earnings (cost of employment and the \$30+1/3 disregard);
6. Emergency assistance. Amounts of EA issued to the assistance unit: Deducted to determine payable grant amount for intake months only.

**Historical Note**

R6-13-321 recodified from A.A.C. R6-3-321 effective February 13, 1996 (Supp. 96-1).

**R6-13-322. Expired****Historical Note**

R6-13-322 recodified from A.A.C. R6-3-322 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

**ARTICLE 4. RESERVED****ARTICLE 5. RESERVED****ARTICLE 6. REPEALED**

*Article 6, consisting of Sections R6-13-601 through R6-13-604, repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).*

**R6-13-601. Repealed****Historical Note**

R6-13-601 recodified from A.A.C. R6-3-601 effective February 13, 1996 (Supp. 96-1). Section R6-13-601 repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).

**R6-13-602. Repealed****Historical Note**

R6-13-602 recodified from A.A.C. R6-3-602 effective February 13, 1996 (Supp. 96-1). Section R6-13-602 repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).

**R6-13-603. Repealed****Historical Note**

R6-13-603 recodified from A.A.C. R6-3-603 effective February 13, 1996 (Supp. 96-1). Section R6-13-603 repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).

**R6-13-604. Repealed****Historical Note**

R6-13-604 recodified from A.A.C. R6-3-604 effective February 13, 1996 (Supp. 96-1). Section R6-13-604 repealed by final rulemaking at 18 A.A.R. 1863, effective July 10, 2012 (Supp. 12-3).

**ARTICLE 7. REPEALED**

*Article 7, consisting of Section R6-13-701, repealed by exempt rulemaking at 9 A.A.R. 3966, effective October 20, 2003 (Supp. 03-3).*

**R6-13-701. Repealed****Historical Note**

R6-13-701 recodified from A.A.C. R6-3-701 effective February 13, 1996 (Supp. 96-1). Section repealed by exempt rulemaking at 9 A.A.R. 3966, effective October 20, 2003 (Supp. 03-3).

*Editor's Note: The following Article heading was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

**ARTICLE 8. SHORT-TERM CRISIS SERVICES**

*Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for*

*review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-801. Definitions**

The definitions in A.R.S. § 46-241 and following definitions apply in this Article.

1. “Basic necessities” means the situations or possessions necessary to maintain a safe and healthy living environment, including shelter, food, and clothing.
2. “Child” means a person under the age of 18 years.
3. “Contract” means an executed agreement with specified terms and limits between the Department and a government agency or a private entity for the purposes of delivering goods or services for the Department for monetary reimbursement.
4. “Contract provider” means a public or private entity with which the Department has a contract to provide goods or services for recipients of short-term crisis services.
5. “Department” means the Department of Economic Security, Community Services Administration.
6. “Diagnosis” means an opinion rendered by a doctor of medicine, a doctor of osteopathy, or a psychologist certified by either the Arizona Board of Psychologist Examiners or by the Department of Education.
7. “Disabled person” means a person who has been diagnosed as having a physical or mental impairment which substantially limits one or more of that person’s major life activities.
8. “Elderly person” means a person 60 years of age or older.
9. “Federal Poverty Guidelines” means the national guidelines which designate the amount of income that signifies poverty, and which are issued by the United States Department of Health and Human Services and published in the *Federal Register*.
10. “Homeless person” means a person who lacks a fixed, regular, and adequate nighttime residence, or a person who has primary nighttime residence in a building used for temporary sleeping accommodations but does not include a person who is imprisoned or otherwise detained in a government facility under federal or state law.
11. “Household” means all adults and children who reside together in the same dwelling.
12. “Major life activities” means activities necessary to care for one’s self through performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.
13. “Resident” means a person who dwells and intends to remain in Arizona.
14. “Self-sufficiency Diversion Option” means cash assistance option offered to certain TANF applicants pursuant to A.R.S. § 46-353.
15. “Short-term Crisis Services” means a benefit which is distributed in the form of vendor payments or warrants, issued on behalf of an eligible household, for the household’s basic necessities.
16. “TANF” means Temporary Assistance for Needy Families, which is *assistance granted under section 403 of Title IV of the Social Security Act as it exists after August 21, 1996.* (A.R.S. § 46-101(20)).
17. “Temporary sleeping accommodations” means a building that is publicly or privately operated for the purposes of providing overnight shelter to a homeless person or domestic violence victim and includes homeless shelters and domestic violence shelters.
18. “Unforeseen expenses” means living costs which were unexpected and cannot be avoided.

19. “Vendor agreement” means a written agreement between the Department and a provider of goods or services who has agreed to accept reimbursement from the Department on behalf of the short-term crisis services recipient.
20. “Work day” means Monday through Friday excluding Arizona state holidays.

#### **Historical Note**

R6-13-801 recodified from A.A.C. R6-3-801 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor’s Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor’s Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-802. Application Procedures**

- A. To apply for short-term crisis services, an applicant shall:
  1. Participate in a face-to-face interview with an employee of the contract agency in the applicant’s geographic area;
  2. File a written application on a Department form with the contract agency; and
  3. Provide the contract agency with the information listed in subsections (C) and (D).
- B. The completed application form shall contain the following information:
  1. For the applicant and all household members:
    - a. Name, address, and telephone number;
    - b. Personal information, including citizenship, residency, date of birth, social security number, gender, and ethnicity; and
    - c. Gross monthly countable income as defined in R6-13-805;
  2. Relationship of all household members;
  3. The short-term crisis service the household is requesting and the reason services are needed; and
  4. For all household members age 16 and older, an employment history for 30 days preceding the date of application; and
  5. The applicant shall provide information regarding the household members’ application for short-term crisis services and TANF cash assistance during the 12 months preceding the date of application; and
  6. The applicant’s signature and date of application.
- C. The applicant shall provide documentation of the employment history and countable income required by subsection (B)(1)(c) and (B)(4).
- D. The contract provider shall close an incomplete application if the applicant does not provide all required information within five days after the application postmark date.
- E. An applicant whose file has been closed and who later wants services shall submit a new application.
- F. Within 15 work days of the date of receiving a completed application, the contract provider shall send the applicant written notification of eligibility for services.

#### **Historical Note**

R6-13-802 recodified from A.A.C. R6-3-802 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was repealed and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-803. General Eligibility Requirements**

- A.** To be eligible for short-term crisis services, a person shall:
1. Reside in the state of Arizona;
  2. Have an emergent need that can be met by the provision of at least one of the types of assistance defined in R6-13-807; and
  3. Lack income and resources to meet the emergent need.
- B.** The following persons are ineligible for short-term crisis services:
1. A Native American who resides on a reservation,
  2. A person being sanctioned by the TANF program, and
  3. A person receiving benefits under the self-sufficiency diversion option.

#### **Historical Note**

R6-13-803 recodified from A.A.C. R6-3-803 effective February 13, 1996 (Supp. 96-1). Section repealed; new Section R6-13-803 renumbered from R6-13-804 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-804. Financial Eligibility Requirements; Countable Income**

- A.** To be eligible for short-term crisis services, a person must be in a household that meets the following requirements on the date of application:
1. The household's total gross countable monthly income for the previous 30 days, including the day the application does not exceed 125% of the Federal Poverty Guidelines; or
  2. For households with an elderly or disabled person, the household's total gross countable income for the previous 30 days, including the day of the application does not exceed 150% of the Federal Poverty Guidelines.
- B.** When determining financial eligibility, the Department shall include countable income of all household members except as provided in subsection (C). Countable income includes:
1. Earned income;
  2. Governmental cash benefits;
  3. Dividends over \$50 per month;
  4. Interest income over \$50 per month;
  5. Child support;
  6. Alimony;
  7. Net rental income;

8. Annuities;
  9. Royalties;
  10. Strike benefits;
  11. Workers' compensation;
  12. Unemployment insurance benefits;
  13. Monthly payment from real property sales;
  14. Proceeds from the sale of a house or car;
  15. Military allotments;
  16. Grants and scholarships that do not need to be repaid, excluding funds identified for tuition and books;
  17. Work-study money;
  18. Net gambling or lottery winnings;
  19. Lump sum payments;
  20. Mileage allowances; and,
  21. Cash gifts not specifically excluded in subsection (D).
- C.** Countable income does not include:
1. The value of food stamps;
  2. Any portion of an education grant or scholarship used for tuition and books;
  3. Earned income of a child under 16 years of age;
  4. Cash gifts of \$50 or less per month per household member;
  5. Tax refunds;
  6. Non-cash benefits provided on behalf of household member but not paid directly in the name of the household member, including vouchers for food, clothing, or housing;
  7. Loans that need to be repaid;
  8. Money which a household member receives and uses for the care and maintenance of a person who is not a household member;
  9. Stipends from senior companion programs; and
  10. Other income not specifically listed as countable.

#### **Historical Note**

R6-13-804 recodified from A.A.C. R6-3-804 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-803; new Section R6-13-804 renumbered from R6-13-805 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-805. Emergent Need Eligibility Requirements**

In order to be eligible for emergency assistance, a person shall be in a household which is experiencing or which expects to experience:

1. Homelessness that was caused by one or more of the following:
  - a. Domestic violence;
  - b. Loss of income;
  - c. Unforeseen circumstances that increase the household's expenditures, making it impossible to meet budgeted expenditures without short-term crisis services; or
  - d. A condition that endangers the health or safety of a household member;
  - e. Other similar emergency situations.

2. Interruption of heating or cooling of the household's dwelling that was caused by:
  - a. Domestic violence,
  - b. Loss of or income,
  - c. Unforeseen circumstances that increased the household's expenditures making it impossible to meet the following months' budgeted expenditures without short-term crisis services,
  - d. A condition that endangers the health or safety of the household, or
  - e. Other similar emergency situations.

#### Historical Note

R6-13-805 recodified from A.A.C. R6-3-805 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-804; new Section R6-13-805 renumbered from R6-13-806 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-13-806. Types of Assistance; Duration

- A. The Department, through its contract providers, shall provide short-term crisis services to alleviate or prevent homelessness through payments for:
  1. Emergency shelter at homeless shelter facilities, hotels, or motels;
  2. Rent or rental deposits to move homeless families into permanent housing;
  3. Rent or mortgage payments for household that anticipate homelessness; or
  4. Special needs necessary to continue or secure employment when no other resources are available. "Special needs" include auto repair, dental work, and eyeglasses.
- B. The Department shall provide short-term crisis services to alleviate or prevent the loss of heating or cooling through payments for:
  1. Utility bill assistance;
  2. Rent when utilities are included;
  3. Utility deposits; or
  4. Repair or replacement of appliances needed for a safe and healthy living environment, such as water heaters, cooking stoves, microwaves, furnaces, refrigerators, evaporative coolers, and water or sewer systems.
- C. A household is eligible to receive short-term crisis services only one time in a 12-consecutive-month period. The contract provider agency shall determine what specific short-term crisis services to provide a household based on the information in the household's application.

#### Historical Note

R6-13-806 recodified from A.A.C. R6-3-806 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-805; new Section R6-13-806 renumbered from R6-13-807 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-13-807. Payments

- A. In a 12-month period, as described in R6-13-806(C), the Department payment on behalf of an eligible household shall not exceed the amounts listed in this Section.
  1. For emergency shelter at homeless facilities, no more than \$5,000.
  2. For utility assistance, the amount of the bill or \$500, whichever is less.
  3. For federally funded utility, repair or replacement and deposit, the actual cost or \$1,200, whichever is less.
  4. For state-funded utility repair, replacement, and deposit, the actual cost or \$600, whichever is less.
  5. For rent, rental deposits, or mortgage assistance, the actual cost or \$1,500 per household whichever is less.
  6. For special needs as described in R6-13-808(A)(4), the actual cost or \$500, whichever is less.
- B. The Department shall pay for all short-term crisis services through warrants to contract agencies or companies with which the contract agency has a written or verbal vendor agreement.

#### Historical Note

R6-13-807 recodified from A.A.C. R6-3-807 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-806; new Section R6-13-807 renumbered from R6-13-808 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### R6-13-808. Notification

The contract agency which the Department has a written contract with shall be responsible for sending the applicant a decision letter upon determination of eligibility.

#### Historical Note

R6-13-808 recodified from A.A.C. R6-3-808 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-807; new Section adopted effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

*Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in*

*the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

#### **R6-13-809. Complaints, Hearings, and Appeals**

- A.** The following decisions are appealable:
1. Denial of eligibility,
  2. The amount of assistance awarded, and
  3. Termination or reduction of assistance.
- B.** To appeal, an applicant shall file a written request for appeal with the contract agency, within 10 working days of the post-mark date of the letter denying eligibility or affecting benefits.
- C.** The Department shall conduct appeals pursuant to the procedures set forth in R6-13-1208(G) through (N).

##### **Historical Note**

R6-13-809 recodified from A.A.C. R6-3-809 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

#### **ARTICLE 9. REPEALED**

#### **R6-13-901. Expired**

##### **Historical Note**

R6-13-901 recodified from A.A.C. R6-3-901 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 617, effective August 31, 2004 (Supp. 05-1).

#### **R6-13-902. Repealed**

##### **Historical Note**

R6-13-902 recodified from A.A.C. R6-3-902 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-903. Repealed**

##### **Historical Note**

R6-13-903 recodified from A.A.C. R6-3-903 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-904. Repealed**

##### **Historical Note**

R6-13-904 recodified from A.A.C. R6-3-904 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-905. Repealed**

##### **Historical Note**

R6-13-905 recodified from A.A.C. R6-3-905 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-906. Repealed**

##### **Historical Note**

R6-13-906 recodified from A.A.C. R6-3-906 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-907. Repealed**

##### **Historical Note**

R6-13-907 recodified from A.A.C. R6-3-907 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-908. Repealed**

##### **Historical Note**

R6-13-908 recodified from A.A.C. R6-3-908 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-909. Repealed**

##### **Historical Note**

R6-13-909 recodified from A.A.C. R6-3-909 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-910. Repealed**

##### **Historical Note**

R6-13-910 recodified from A.A.C. R6-3-910 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-911. Repealed**

##### **Historical Note**

R6-13-911 recodified from A.A.C. R6-3-911 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-912. Expired**

##### **Historical Note**

R6-13-912 recodified from A.A.C. R6-3-912 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

#### **R6-13-913. Repealed**

##### **Historical Note**

R6-13-913 recodified from A.A.C. R6-3-913 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-914. Repealed**

##### **Historical Note**

R6-13-914 recodified from A.A.C. R6-3-914 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

#### **R6-13-915. Repealed**

##### **Historical Note**

R6-13-915 recodified from A.A.C. R6-3-915 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-916. Repealed****Historical Note**

R6-13-916 recodified from A.A.C. R6-3-916 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-917. Repealed****Historical Note**

R6-13-917 recodified from A.A.C. R6-3-917 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-918. Expired****Historical Note**

R6-13-918 recodified from A.A.C. R6-3-918 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

**R6-13-919. Repealed****Historical Note**

R6-13-919 recodified from A.A.C. R6-3-919 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-920. Repealed****Historical Note**

Former Rule 3-924; Former Section R6-3-920 repealed, new Section R6-3-920 adopted effective March 26, 1976 (Supp. 76-2). R6-13-920 recodified from A.A.C. R6-3-920 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-921. Repealed****Historical Note**

R6-13-921 recodified from A.A.C. R6-3-921 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**R6-13-922. Repealed****Historical Note**

R6-13-922 recodified from A.A.C. R6-3-922 effective February 13, 1996 (Supp. 96-1). Section repealed by final rulemaking at 18 A.A.R. 1175, effective June 30, 2012 (Supp. 12-2).

**ARTICLE 10. RESERVED****ARTICLE 11. RESERVED****ARTICLE 12. OTHER PROCEDURES AND SERVICES****R6-13-1201. Confidentiality**

- A.** Confidential information to be safeguarded. No information concerning an applicant or recipient, whether contained in client case records, or in any other records of the Department, or known to employees of the Department, will be disclosed to any party except as specified in provisions of this Article.

Examples: Such information includes, but is not limited to, the names and addresses of clients or the amount of assistance provided; information related to the social and economic conditions or circumstances of a client; medi-

cal data, including diagnosis and past history of disease or disability concerning a client.

- B.** Release of information. The use or disclosure of information concerning a client shall be limited to the client, or to persons or agencies subject to confidentiality restrictions comparable to those of the Department and for purposes directly related to the administration of Public Assistance programs (such as establishing eligibility, determining the amount of the grant, providing services, taking legal actions on behalf of the Department or a federal public assistance agency, etc.).
- C.** Authorized parties: Unless specifically otherwise restricted, safeguarded information may be released to the following parties and only under the conditions here specified:
1. The client. An applicant or recipient may view the contents of the applicant's or recipient's case record at any time, provided a member of the Department is present during the examination of the case record. However, a dependent child may view the case record in which the child is included as a recipient only with the written permission of the child's parent or other caretaker relative.
  2. Employees of the Department. For official purposes, employees of the Department may view case records and transmit safeguarded information, without the client's written or verbal consent, to other employees of the Department.
  3. Social Security Administration. For official purposes, safeguarded information may be disclosed, without the client's written or verbal consent, to employees of the Social Security Administration.
  4. Other public assistance agencies. For official purposes, the Department may release, without the client's written or verbal consent, case-record information to the public assistance or welfare agencies of any other state.
  5. Title IV-D. Employees of the Department may release case record information, without the client's written or verbal consent, to county attorneys and to clerks of the courts for official purposes relating to Title IV-D child support enforcement.
  6. Other law-enforcement officials. The Department may release, without the client's written or verbal consent, information to authorized officials for the purposes of an investigation, prosecution, or criminal or civil proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program. For any other purposes, the client's written authorization is required.
  7. Contracted agencies. For official purposes, employees of the Department may give client information, with either the verbal or written consent of the client, to the social services components of agencies or institutions with which the Department has contractual agreements for the purpose of providing social, financial, or medical services.
  8. Subpoena of records. In the event of a subpoena for a client's case record or for a Department employee to testify concerning a client, or a request for information from a governmental authority, the courts, or a law enforcement official, attention will be called through proper channels of the policies, rules, and regulations against the disclosure of information.
  9. Disclosure to other parties. Safeguarded information relating to a client may be disclosed to other parties or agencies not here specified only with the client's specific written consent and authorization. An employee of the

## Department of Economic Security – State Assistance Programs

Department must be present at all times whenever a client's case record is being viewed.

**Historical Note**

R6-13-1201 recodified from A.A.C. R6-3-1201 effective February 13, 1996 (Supp. 96-1).

**R6-13-1202. Transfer of Cases Between Cost Centers**

An individual is not subject to any residence restriction within the state and will be given agency services in the place where the individual chooses to make a home.

1. Change of address. When a recipient moves out of the jurisdiction of a cost center, that cost center is responsible for processing the change of address.
2. Pending applications. A pending application will not be transferred from one district to another but may be transferred between cost centers within the same district.
3. Transfer of an active case. Upon notification from the recipient of a change of address from the jurisdiction of one cost center to another, the cost center receiving the notification will take appropriate action.
4. Transfer of closed cases. When an individual applies for assistance and the interview reveals prior agency contact with another cost center, a written request will be made for transfer of the prior record with all other information available concerning the individual.
5. Transfer of suspended case. A suspended case may be transferred if the cost center making the request is aware of the case status.
6. Transfer transmittal. The case record being transferred will be identified by case number, SSN, and name, with a brief transmittal memorandum prepared in triplicate.

**Historical Note**

R6-13-1202 recodified from A.A.C. R6-3-1202 effective February 13, 1996 (Supp. 96-1).

**R6-13-1203. State Warrants**

Assistance grants are paid by warrants drawn on the State Treasury. Warrants are issued either directly to the eligible recipient or to a payee -- a protective payee, an emergency payee, a legal guardian, or to a vendor.

1. Missing or stolen warrants. Upon receipt of information that a recipient has not received the recipient's warrant, the recipient will be interviewed and required to complete a bond of indemnity.
  - a. When it has been determined that the warrant has been cashed, the Finance Division will send a photocopy of the signed warrant to the local office for a signature comparison. If the signature appears to be that of the recipient and the recipient denies signing the warrant, the matter will be referred to the Special Investigations Unit.
  - b. If the check apparently contains a forged signature, the recipient will complete an affidavit of forgery for issuance of another warrant.
2. Terminal warrants. Should a recipient die, only warrants signed by the recipient prior to death may be honored for payment by the State Treasurer. An exception is allowed when there is a legal guardian and the guardian can establish the recipient was alive on the date the warrant was received; in such case the guardian may endorse and cash the warrant.
3. Canceling or stopping warrants. The eligibility worker can request that a warrant not be mailed and be cancelled, or that payment of an already mailed warrant be stopped, if information received in the local office requires such action.

4. Mailing address for warrants. A recipient has the right to designate the address to which the recipient wishes the assistance warrant mailed, except that warrants may not be mailed to any Department of Economic Security office, or to the residence address of any employee of the Department. If the recipient has mail delivery to the place of residence, the recipient will be encouraged to use this address as the mailing address.
5. Clients signing by mark. Documents signed with an "X" or by a thumb print are acceptable if properly witnessed. The EW may serve as a witness.

**Historical Note**

R6-13-1203 recodified from A.A.C. R6-3-1203 effective February 13, 1996 (Supp. 96-1).

**R6-13-1204. Guardianship**

- A. Representation by legal guardian. A court-appointed (legal) guardian may legally represent the applicant and may apply for assistance and receive payment on behalf of the guardian's ward.
- B. Warrants. Warrants issued to legal guardians will be written in the following format: "John Smith, Guardian of John Doe." The guardian will endorse the warrant for cashing the same as it is written.

**Historical Note**

R6-13-1204 recodified from A.A.C. R6-3-1204 effective February 13, 1996 (Supp. 96-1).

**R6-13-1205. Reserved****R6-13-1206. Overpayments**

- A. The Department will pursue collection of all Aid to Families with Dependent Children (AFDC) overpayments discovered on October 1, 1981, or on any following date. No waivers of repayment will be granted on such cases.
- B. The Department will pursue collection of all AFDC overpayments discovered prior to October 1, 1981, and all overpayments in the General Assistance (GA) and Supplemental Payments (SP) Programs. On such cases waiver of repayment can be granted in accordance with A.R.S. § 46-213(B).

**Historical Note**

R6-13-1206 recodified from A.A.C. R6-3-1206 effective February 13, 1996 (Supp. 96-1).

**R6-13-1207. Special Investigations Unit**

Arizona Revised Statutes provide for the establishment of a Special Investigations Unit within the Department of Economic Security.

1. This unit shall perform special investigative duties at any office in the state as may be assigned. Examples of these duties are:
  - a. Establish liaison with the various law enforcement agencies.
  - b. Investigate cases involving fraudulent receipt of assistance payments or food stamps and to prepare such cases for presentation to the County Attorney. Where necessary, the Special Investigations Unit investigator shall act as complaining witness for the Department.
  - c. Make and report on other types of investigations referred to the unit such as concealment of all types of assets or income, possible secret marriage, non-legal union relationships where extra income could be involved, and required assistance in child welfare cases.
  - d. Other duties, as assigned.
2. Local office responsibilities

- a. Appropriate case records will be made available for examination by Special Investigations Unit representatives.
  - b. The local office will schedule interviews on cases selected by the Special Investigations Unit. If an applicant fails to keep the first appointment, a second appointment will be made. If the recipient fails to keep this appointment, without cause, the grant will be suspended.
  - c. The local office will refer all applications or resumes of active cases to the Special Investigations Unit which have been closed or suspended as a result of an SIU investigation.
  - d. If a hearing is requested in a case where an application was denied or assistance discontinued as a result of a Special Investigations Unit investigation, referrals for further investigation are to be made to the Special Investigations Unit when the hearing request is received. These referrals should use Hearing Priority I as the reason for the investigation report.
  - e. It is the responsibility of the local office Eligibility Worker to submit any new information regarding the case.
3. Special Investigations Unit Responsibilities
- a. The Special Investigation Unit will notify the local office of cases selected by them for interview.
  - b. The Special Investigations Unit will attempt to complete their investigations and report back to the local office within 20 days of the referral date. When it is impossible to meet this deadline, a memo of explanation will be sent to the local office and the case removed from "Priority I" status.
  - c. Upon completion of an investigation a report will be sent to the local office which made the referral. Also, interview reports will be made when the Special Investigations Unit deems it necessary.
4. Referrals to County Attorneys. All absent parent cases will be referred to County Attorneys by the Special Investigations Unit and not by the local office Eligibility Worker.

#### Historical Note

R6-13-1207 recodified from A.A.C. R6-3-1207 effective February 13, 1996 (Supp. 96-1).

#### R6-13-1208. Complaints, Hearings, and Appeals

- A.** Complaints. Complaints may be filed only regarding matters not covered by Appeals, subsection (B) following. A complaint received relating to an appealable matter shall be treated as an appeal and considered filed as of the date the complaint was received.
- 1. Treatment by local office. Verbal or written complaints shall be referred to the local office supervisor or to a person designated to act for the supervisor. The case will then be discussed with the assigned caseworker who shall attempt to work through the problem with the appellant, explaining the reason for the Department's action and attempting to resolve any difficulty relating to a possible appeal. If, after the conference is held at the local level, the appellant is still dissatisfied, an appointment may be made with the Program Manager or the person to whom responsibility for holding such conferences is delegated.
  - 2. Treatment by state Office. Complaints which are received in the state Office by telephone, or letter, or directly by visit of the appellant, may be handled by the state Office or referred to the Program Manager of the district in which the appellant resides.
- a. Replies to letters shall be made using information available in the District Office and the local office.
  - b. Whenever there is contact between the state Office and the appellant regarding a complaint which could be an appealable matter, the appellant shall be reminded of the appeal procedure, and that the appellant need not pursue an informal complaint before filing an appeal.
- B.** Basis for appeal. An appellant will be granted a hearing for any of the following reasons:
- 1. Right to apply for assistance has been denied.
  - 2. Application is denied in whole or in part.
  - 3. Action on an application has not been taken by the Department within 45 days of the date of application for AFDC, 60 days for GA, or 30 days for SP or TC.
  - 4. Assistance is suspended, terminated, reduced, or otherwise withheld when such action has occurred as a result of an eligibility determination based on facts or judgment as applied to individual circumstances.
  - 5. The appellant disagrees that an overpayment has been made, or disagrees with the amount of the overpayment, or feels that the plan for repayment causes undue hardship, or the appellant's request for a waiver has been denied.
  - 6. A hearing will not be granted when either state or federal law requires automatic grant adjustments for classes of appellants, unless the reason for an individual appeal is incorrect grant computation or incorrect application of said law to the case.
  - 7. The Office of Appeals may deny or dismiss a request for hearing where a decision has been rendered after a WIDP hearing before the DES Appeals Board that a participant has, without good cause, refused to accept employment or participate in the WIDP program or has failed to request such a hearing after a notice of intended action for such refusal, or where it is abandoned.
- C.** Timely filing of appeal
- 1. Unless a written request for hearing is filed within 10 calendar days of the decision letter mailing date for the AFDC, SP, TC, or GA programs, the Department shall proceed to take the proposed action.
  - 2. Except as otherwise provided by statute or by Department regulations, any appeal submitted to the Department shall be considered received by and filed with the Department:
    - a. On the date it is mailed, if transmittal via the U.S. Postal Service or its successor. The mailing date will be as follows:
      - i. As shown by the postmark; or
      - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
      - iii. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
    - b. On the date it is received by the Department, if not transmitted via the U.S. Postal Service, or its successor.
  - 3. The submission of any document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.
  - 4. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to the person's last-known address. The date



## Department of Economic Security – State Assistance Programs

mailed will be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, A.R.S. Volume 16

5. If appeal is timely, benefits shall not be reduced or terminated prior to a hearing decision unless due to a subsequent change in household eligibility and another notice of adverse action is received and not timely appealed.
  6. If an appeal is filed after 10 days for the AFDC, SP, TC, or GA programs but within 20 days of the decision letter mailing date, the local office shall proceed to take the proposed action, the Office of Appeals shall hear the appeal and, if ruling is in the appellant's favor, any resulting under payment of benefits shall be restored to the appellant by retroactive payments. If appeal is filed at any time later than 20 days, the Office of Appeals shall deny the request for hearing unless good cause is shown for untimely filing.
  7. The local office shall advise the appellant of any community legal services available and, when requested, shall assist the appellant in completing the hearing request.
- D. Appeal requests.** Appeals for a hearing must be in writing. They can be filed by the appellant or by the appellant's designated representative and must be filed with the local office.
1. The local office must forward all requests to the Office of Appeals within two working days of receipt.
  2. Emergency Assistance and Hardship Supplement appeals shall not be forwarded to the Office of Appeals but shall be handled by the local office supervisor or manager.
  3. Before it can schedule a hearing, the Office of Appeals must be in receipt of:
    - a. The copy of the form or correspondence on which the hearing is requested, and
    - b. The Case Decision Notice, and
    - c. Any other written request or correspondence from the client or the client's representative related to the appeal.
  4. Whenever a request is forwarded from the local office to the Office of Appeals, the forwarding action and date should be noted on the Case Actions Summary. The local office caseworker must complete all appropriate portions of hearing request forms requiring local office entries. A copy of the request will be retained in the appellant's case record. All documents concerning EA appeals will be retained in the case record.
- E. Disability determination.**
1. An appellant who bases an appeal on an adverse disability determination will be given the opportunity to have another medical examination prior to the hearing.
  2. If the appellant wishes a medical examination prior to the hearing, the local office shall authorize and schedule it. The examination may be with a doctor chosen by the Department or by the appellant, but only by a licensed physician, psychologist, or psychiatrist.
  3. At any time prior to issuing the decision, the Hearing Officer can authorize a special diagnostic evaluation by direct request to the District Medical Consultant, who will select an appropriate specialist.
  4. The Hearing Officer may consider new medical evidence without referral to the Medical Consultant or may request the Medical Consultant to provide an evaluation of the above new medical evidence to the Hearing Officer, giving the Medical Consultant's recommendation concerning the appellant's disability and employability status.
  5. The opinion of the District Medical Consultant shall be considered as expert evidence at the hearing but is not binding on the Hearing Officer.
  6. All medical, social, and vocational reports, including reports from the Division of Vocational Rehabilitation, the Social Security Administration, and the Veteran's Administration, which are relevant to the determination of disability or employability, shall be considered by the Hearing Officer. A finding of ineligibility for Social Security disability shall not be considered as a basis for ineligibility for General Assistance.
  7. The appellant's testimony as to the appellant's physical and mental condition or symptomatology shall be considered by the Hearing Officer.
- F. Group hearings.** The Department may respond to a series of individual requests for hearings by conducting a single group hearing.
1. Such hearings shall be limited to those cases in which the sole issue involved is one of state or federal law or policy.
  2. Each individual appellant shall be permitted to present the appellant's own case or be represented by the appellant's authorized representative.
  3. The individual appellant may withdraw from the group hearing and request and be granted an individual hearing.
- G. Notice of hearing**
1. Hearings shall be held at those regularly established hearing locations most convenient to the interested parties or at the discretion of the Hearing Officer. A hearing shall be scheduled not less than 10 nor more than 45 days from the date of filing of the request for hearing. The appellant shall be given no less than 10 days' notice of hearing, except that the appellant may waive the notice period or request a delay.
  2. The notice of hearing will inform the appellant of the date, time, and place of the hearing, the name of the Hearing Officer, the issues involved, and the appellant's rights to:
    - a. Present the case in person, by telephone, or through a representative; and
    - b. Copy any documents in the appellant's case file and all documents and records to be used by the agency at the hearing at a reasonable time prior to the hearings as well as during the hearing; and
    - c. Obtain assistance from the local office in preparing the case; and
    - d. Make inquiry at the local office about availability of community legal resources which could provide representation at the hearing.
  3. Notification shall be in writing, both to the appellant and to the local office on form US-037, Hearing Place Notice. If an appellant has good cause for being unable to attend a hearing once scheduled, the appellant must request a delay by either calling the local office or by writing directly to the Hearing Officer (P.O. Box 6123, Phoenix, Arizona 85005). The request must be received at least five working days prior to the hearing; otherwise the request may be denied. All scheduling is the responsibility of the Office of Appeals.
  4. The appellant, in lieu of a personal appearance, may appear by telephone or submit a written statement, under oath or affirmation, setting forth the facts of the case. The statement must be submitted to the Department with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal.

5. The Hearing Officer may, on the Hearing Officer's own motion or at the request of any interested party upon showing of good cause, disqualify himself or herself, or continue the hearing to a future time, or reopen a hearing before a decision is final to take additional evidence.
    - a. If an interested party fails to appear at a scheduled hearing, the Hearing Officer may adjourn the hearing to a later date or may make a decision upon the record and upon such evidence as may be presented at the scheduled hearing.
    - b. If, within 10 days of the scheduled hearing, the applicant files a written request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing will be rescheduled. Notice of the time, place, and the purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
- H. Prehearing summary**
1. A prehearing summary of the facts and grounds for the action taken shall be prepared by the local office and must reach the Hearing Officer no less than 10 days prior to the hearing.
  2. A copy of the summary shall be made available to the appellant or to the appellant's representative prior to the hearing.
  3. The summary must be a typewritten report. Handwritten summaries are not acceptable. The summary must contain:
    - a. Appellant's name (and case name, if different); and
    - b. SSN (or case number, if different); and
    - c. Local office responsible; and
    - d. Brief summary of circumstances supporting the Department's action; and
    - e. Exact legal manual references used by the local office in its eligibility determination.
- I. Subpoena of witnesses**
1. The Hearing Officer may subpoena any witnesses or documents requested by the Department or appellant to be present at the hearing. The request shall be in writing and will state the name and address of the witness and the nature of the testimony. The nature of the witness' testimony must be relevant to the issues of the hearing; otherwise the Hearing Officer may deny the request.
    - a. The request for the issuance of a subpoena shall be made to give sufficient time -- a minimum of three working days -- prior to the hearing.
    - b. A subpoena requiring the production of records and documents must specifically describe them in detail and further set forth the name and address of the custodian thereof.
  2. The Office of Appeals will prepare all subpoenas. Service of the subpoena will be accomplished by certified mail, receipt requested.
- J. Review of file.** In the presence of a Department representative, the appellant or the appellant's authorized representative, or both, shall be permitted to review, obtain, or copy any Departmental record necessary for the proper presentation of the case.
- K. Conduct of the hearing.**
1. Hearings shall be conducted in an orderly and dignified manner.
  2. Hearings shall be opened, conducted, and closed by the Hearing Officer, who shall rule on the admissibility of evidence and shall direct the order of proof. The Hearing Officer will have the power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of any documents the Hearing Officer deems necessary as evidence in connection with a hearing.
3. The hearing is a de novo proceeding. The burden is on the client to prove eligibility by a preponderance of evidence. The Department has the initial burden of going forward with presentation of evidence.
  4. Evidence not related to the issue shall not be allowed to become a part of the record.
  5. The Hearing Officer may, on his own motion or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
  6. The worker, supervisor, or other appropriate person may be designated Department representative for the hearing.
  7. The appellant and Department representative may testify, present evidence, and cross-examine witnesses and present arguments.
  8. A full and complete record shall be kept of all proceedings in connection with an appeal. Such records will be open for inspection by the appellant or the appellant's representative at a place accessible to the appellant.
    - a. A transcript of the proceedings need not, however, be made unless it is required for further proceedings. When a transcript has been made for further proceedings, a copy will be furnished without cost to each interested party.
    - b. At the close of a hearing, all parties concerned are to vacate the hearing room and are requested to refrain from conferring about the hearing or the case with the Hearing Officer.
- L. Hearing decisions**
1. The hearing decision will be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Departmental rules governing the issues in dispute.
  2. The decision will set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision, and the reasons therefore. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and each party's attorney of record not more than 60 days from the date of filing the request for appeal, unless the delay was caused by the appellant.
  3. Decisions of the Hearing Officer shall bear the signature of that officer.
  4. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
  5. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the Hearing Officer specifically finds appropriate.
  6. When a hearing decision upholds the proposed action of reducing, suspending, or terminating a grant, any overpayment which results will be treated as a client-caused non-fraud overpayment.
  7. All hearing decisions will be made accessible to the public, subject to all the confidentiality restrictions set forth in A.R.S. § 41-1959.
  8. The decision of the Hearing Officer will be the final decision of the Department, unless a reconsideration is requested in accordance with subsection (N) below.
- M. Withdrawal of appeal.** An appeal may be withdrawn as follows:
1. Voluntary. An appellant may voluntarily withdraw his request for a hearing by completing and signing the

proper Department form or by submitting a letter properly signed.

2. Default. An appellant is considered to have abandoned or involuntarily withdrawn a request for a hearing if the appellant fails to appear at a scheduled hearing and fails to request a rescheduled hearing within 10 days. A hearing will not be considered abandoned if the appellant provides notification up to the time of the hearing that the appellant is unable, due to good cause, to keep the appointment and that the appellant still wishes a hearing, or that the appellant wishes the matter considered on the record.

**N. Appeals Board review.**

1. An appellant may request the Appeals Board to review an adverse hearing decision within 10 calendar days after the decision was mailed or otherwise delivered to the appellant.
  - a. The request for further appeal must be in writing, signed, and dated. It should set forth a statement of the grounds for review and may be filed personally or by mail.
  - b. If the request for further appeal is filed within 10 days of the issuance of the original hearing decision, the local office must continue to withhold the original proposed negative case action until the Appeals Board decision is issued. If the Appeals Board decision is again adverse to the appellant, overpayments which result will be treated as a client-caused non-fraud overpayment.
2. After receipt of a request the Appeals Board will either:
  - a. Remand the case for rehearing, specifying the nature of any additional evidence required or issues, or both, to be considered; or
  - b. Grant the request and decide the appeal on the record.
3. The Appeals Board will promptly adopt a decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, will be distributed to each interested party.

**Historical Note**

R6-13-1208 recodified from A.A.C. R6-3-1208 effective February 13, 1996 (Supp. 96-1).

**R6-13-1209. Quality Control**

The quality control system shall be operated by the state in accordance with state plan provisions to see that public funds expended within the AFDC program are used properly through locating unacceptable performance and ineffective policies.

1. Purpose. The quality control review system provides an administrative means, which meets federal specifications, to assume that assistance is provided in accordance to state plan provisions, and to hold the incidence of errors below pre-established tolerance limits. This is accomplished by:
  - a. Determining the extent to which those receiving assistance are eligible and that they receive payments in the amount to which they are entitled.
  - b. Reducing or eliminating incidences of eligibility and payment errors by:
    - i. Continuous review of statistically reliable statewide samples of cases,

- ii. Periodic assembly and analysis of case findings to determine incidences and amount of errors,
- iii. Application of corrective action to reduce error rates.

**Historical Note**

R6-13-1209 recodified from A.A.C. R6-3-1209 effective February 13, 1996 (Supp. 96-1).

**R6-13-1210. Interagency Inquiry**

Any inquiries or communications from other agencies which are received in a local office shall be given a priority as determined by the information requested.

**Historical Note**

R6-13-1210 recodified from A.A.C. R6-3-1210 effective February 13, 1996 (Supp. 96-1).

**R6-13-1211. Quality Assurance**

Purpose. The Quality Assurance program (assistance programs bureau monitoring system) will be operated by the state to:

1. Identify the incidences of incorrect assistance payments eligibility determinations due to agency error,
2. Recommend and effect remedial action for correcting programmatic and operational deficiencies,
3. Generate and provide data on assistance payments eligibility error determinations to the administration of the Department for purposes of management control.

**Historical Note**

R6-13-1211 recodified from A.A.C. R6-3-1211 effective February 13, 1996 (Supp. 96-1).

**R6-13-1212. Assistance to Individuals on Conditional Discharge from the Arizona State Hospital**

The following guidelines will be applicable to individuals on conditional discharge from the Arizona State Hospital:

1. Conditional discharge. An individual who is on conditional release from the Arizona State Hospital is not to be considered an inmate of a public institution and may apply for and receive public assistance if all other eligibility requirements are met.
2. State Hospital Social Services responsibility. The hospital Social Services staff will arrange for and place the individual in a living arrangement which in their judgment meets the individual's needs. They will provide all necessary social and medical information to assist the Eligibility Worker in determining eligibility for public assistance.
3. Department of Economic Security responsibility. The Department of Economic Security will accept the application and other material supplied by the hospital Social Worker and will complete the processing of the application. The Department will further extend all available agency services to the recipient.

**Historical Note**

R6-13-1212 recodified from A.A.C. R6-3-1212 effective February 13, 1996 (Supp. 96-1).

**R6-13-1213. Expired**

**Historical Note**

R6-13-1213 recodified from A.A.C. R6-3-1213 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective August 29, 2009 (Supp. 09-4).

This page intentionally left blank.



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

**Replacement Check List**  
For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

**TITLE 9. HEALTH SERVICES**

**Table of Contents**

☐ **REMOVE** Supp. 12-2  
pages i-iv

☐ **REPLACE** Supp. 12-3  
with pages i

**Chapter 22 – Arizona Health Care Cost Containment System – Administration**

Sections, Parts, Exhibits, Tables or Appendices modified

R9-22-601, R9-22-604 through R9-22-606, R9-22-710, R9-22-712.01, R9-22-712.20, R9-22-712.30, R9-22-712.40, Article 13, R9-22-1301 through R9-22-1306

☐ **REMOVE** Supp. 12-2  
pages 1-106

☐ **REPLACE** Supp. 12-3  
with pages 1-110

**Chapter 25 – Department of Health Services – Emergency Medical Services**

Sections, Parts, Exhibits, Tables or Appendices modified

R9-25-307, Exhibit B, R9-25-412, R9-25-712, R9-25-1303, R9-25-1314, R9-25-1404

☐ **REMOVE** Supp. 11-4  
pages 1-125

☐ **REPLACE** Supp. 12-3  
with pages 1-123

**Chapter 28 – Arizona Health Care Cost Containment System – Arizona Long-term Care System**

Sections, Parts, Exhibits, Tables or Appendices modified

R9-28-508, R9-28-604, R9-28-606

☐ **REMOVE** Supp. 11-3  
pages 1-42

☐ **REPLACE** Supp. 12-3  
with pages 1-42

**Chapter 31 – Arizona Health Care Cost Containment System – Children's Health Insurance Program**

Sections, Parts, Exhibits, Tables or Appendices modified

R9-31-401

☐ **REMOVE** Supp. 12-2  
pages 1-31

☐ **REPLACE** Supp. 12-3  
with pages 1-32

This page intentionally left blank.

**TITLE 9. HEALTH SERVICES****CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ADMINISTRATION**

*Editor's Note: The Office of the Secretary of State prints all Code Chapters on white paper (Supp 01-3).*

*Editor's Note: This Chapter contains rules which were adopted or amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to Laws 1992, Ch. 301, § 61 and Ch. 302, § 13, and Laws 1993, Ch. 6, § 34. Exemption from A.R.S. Title 41, Chapter 6 means that AHCCCS did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; AHCCCS was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.*

**ARTICLE 1. DEFINITIONS**

*New Article 1, consisting of Sections R9-22-101 through R9-22-103, R9-22-105, and R9-22-106 through R9-22-112 adopted effective December 8, 1997 (Supp. 97-4).*

*Former Article 1, consisting of Section R9-22-101, repealed effective December 8, 1997 (Supp. 97-4).*

## Section

R9-22-101.	Location of Definitions
R9-22-102.	Repealed
R9-22-103.	Repealed
R9-22-104.	Reserved
R9-22-105.	Repealed
R9-22-106.	Repealed
R9-22-107.	Repealed
R9-22-108.	Repealed
R9-22-109.	Repealed
R9-22-110.	Repealed
R9-22-111.	Reserved
R9-22-112.	Repealed
R9-22-113.	Reserved
R9-22-114.	Repealed
R9-22-115.	Repealed
R9-22-116.	Repealed
R9-22-117.	Repealed
R9-22-118.	Reserved
R9-22-119.	Reserved
R9-22-120.	Repealed

**ARTICLE 2. SCOPE OF SERVICES**

## Section

R9-22-201.	Scope of Services-related Definitions
R9-22-202.	General Requirements
R9-22-203.	Experimental Services
R9-22-204.	Inpatient General Hospital Services
R9-22-205.	Attending Physician, Practitioner, and Primary Care Provider Services
R9-22-206.	Organ and Tissue Transplant Services
R9-22-207.	Dental Services
R9-22-208.	Laboratory, Radiology, and Medical Imaging Services
R9-22-209.	Pharmaceutical Services
R9-22-210.	Emergency Medical Services for Non-FES Members
R9-22-210.01.	Emergency Behavioral Health Services for Non-FES Members
R9-22-211.	Transportation Services
R9-22-212.	Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies
R9-22-213.	Early and Periodic Screening, Diagnosis, and Treatment Services (E.P.S.D.T.)
R9-22-214.	Repealed
R9-22-215.	Other Medical Professional Services

R9-22-216.	NF, Alternative HCBS Setting, or HCBS
R9-22-217.	Services Included in the Federal Emergency Services Program
R9-22-218.	Repealed

**ARTICLE 3. REPEALED**

*Article 3, consisting of Sections R9-22-301 through R9-22-319 and R9-22-321 through R9-22-344, repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section R9-22-320 repealed December 13, 1993 (Supp. 93-4).*

**ARTICLE 4. REPEALED**

## Section

R9-22-401.	Repealed
R9-22-402.	Repealed
R9-22-403.	Repealed
R9-22-404.	Repealed
R9-22-405.	Repealed
R9-22-406.	Repealed

**ARTICLE 5. GENERAL PROVISIONS AND STANDARDS**

## Section

R9-22-501.	General Provisions and Standards – Related Definitions
R9-22-502.	Pre-existing Conditions
R9-22-503.	Provider Requirements Regarding Records
R9-22-504.	Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions
R9-22-505.	Standards, Licensure, and Certification for Providers of Hospital and Medical Services
R9-22-506.	Repealed
R9-22-507.	Repealed
R9-22-508.	Repealed
R9-22-509.	Transition and Coordination of Member Care
R9-22-510.	Repealed
R9-22-511.	Repealed
R9-22-512.	Release of Safeguarded Information
R9-22-513.	Repealed
R9-22-514.	Repealed
R9-22-515.	Repealed
R9-22-516.	Renumbered
R9-22-517.	Renumbered
R9-22-518.	Information to Enrolled Members
R9-22-519.	Repealed
R9-22-520.	Expired
R9-22-521.	Program Compliance Audits
R9-22-522.	Quality Management/Utilization Management (QM/UM) Requirements
R9-22-523.	Expired
R9-22-524.	Repealed
R9-22-525.	Repealed
R9-22-526.	Renumbered
R9-22-527.	Renumbered
R9-22-528.	Renumbered

R9-22-529. Renumbered

#### ARTICLE 6. RFP AND CONTRACT PROCESS

*Article 6, consisting of Sections R9-22-601 through R9-22-604, adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1).*

*Article 6, consisting of Sections R9-22-601 through R9-22-605, repealed by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1).*

*Article 6, consisting of Sections R9-22-601 through R9-22-604, adopted effective July 16, 1985.*

*Former Article 6, consisting of Sections R9-22-601 through R9-22-603, repealed effective October 1, 1983.*

##### Section

- R9-22-601. General Provisions
- R9-22-602. RFP
- R9-22-603. Contract Award
- R9-22-604. Contract or Proposal Protests; Appeals
- R9-22-605. Waiver of Contractor's Subcontract with Hospitals
- R9-22-606. Contract Compliance Sanction

#### ARTICLE 7. STANDARDS FOR PAYMENTS

##### Section

- R9-22-701. Standard for Payments Related Definitions
- R9-22-701.01. Reserved
- R9-22-701.02. Reserved
- R9-22-701.03. Reserved
- R9-22-701.04. Reserved
- R9-22-701.05. Reserved
- R9-22-701.06. Reserved
- R9-22-701.07. Reserved
- R9-22-701.08. Reserved
- R9-22-701.09. Reserved
- R9-22-701.10. Scope of the Administration's and Contractor's Liability
- R9-22-702. Charges to Members
- R9-22-703. Payments by the Administration
- R9-22-704. Repealed
- R9-22-705. Payments by Contractors
- R9-22-706. Repealed
- R9-22-707. Repealed
- R9-22-708. Payments for Services Provided to Eligible Native Americans
- R9-22-709. Contractor's Liability to Hospitals for the Provision of Emergency and Post-stabilization Care
- R9-22-710. Payments for Non-hospital Services
- R9-22-711. Copayments
- R9-22-712. Reimbursement: General
- R9-22-712.01. Inpatient Hospital Reimbursement
- R9-22-712.02. Reserved
- R9-22-712.03. Reserved
- R9-22-712.04. Reserved
- R9-22-712.05. Graduate Medical Education Fund Allocation
- R9-22-712.06. Reserved
- R9-22-712.07. Rural Hospital Inpatient Fund Allocation
- Exhibit 1. Pool Example
- R9-22-712.08. Reserved
- R9-22-712.09. Hierarchy for Tier Assignment
- R9-22-712.10. Outpatient Hospital Reimbursement: General
- R9-22-712.11. Reserved
- R9-22-712.12. Reserved
- R9-22-712.13. Reserved
- R9-22-712.14. Reserved

R9-22-712.15. Outpatient Hospital Reimbursement: Affected Hospitals

R9-22-712.16. Reserved

R9-22-712.17. Reserved

R9-22-712.18. Reserved

R9-22-712.19. Reserved

R9-22-712.20. Outpatient Hospital Reimbursement: Methodology for the AHCCCS Outpatient Capped Fee-For-Service Schedule

R9-22-712.21. Reserved

R9-22-712.22. Reserved

R9-22-712.23. Reserved

R9-22-712.24. Reserved

R9-22-712.25. Outpatient Hospital Fee Schedule Calculations: Associated Service Costs

R9-22-712.26. Reserved

R9-22-712.27. Reserved

R9-22-712.28. Reserved

R9-22-712.29. Reserved

R9-22-712.30. Outpatient Hospital Reimbursement: Payment for a Service Not Listed in the AHCCCS Outpatient Capped Fee-for-service Schedule

R9-22-712.31. Reserved

R9-22-712.32. Reserved

R9-22-712.33. Reserved

R9-22-712.34. Reserved

R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees

R9-22-712.36. Reserved

R9-22-712.37. Reserved

R9-22-712.38. Reserved

R9-22-712.39. Reserved

R9-22-712.40. Outpatient Hospital Reimbursement: Annual and Periodic Update

R9-22-712.41. Reserved

R9-22-712.42. Reserved

R9-22-712.43. Reserved

R9-22-712.44. Reserved

R9-22-712.45. Outpatient Hospital Reimbursement: Outpatient Payment Restrictions

R9-22-712.46. Reserved

R9-22-712.47. Reserved

R9-22-712.48. Reserved

R9-22-712.49. Reserved

R9-22-712.50. Outpatient Hospital Reimbursement: Billing

R9-22-713. Overpayment and Recovery of Indebtedness

R9-22-714. Payments to Providers

R9-22-715. Hospital Rate Negotiations

R9-22-716. Repealed

R9-22-717. Repealed

R9-22-718. Urban Hospital Inpatient Reimbursement Program

R9-22-719. Contractor Performance Measure Outcomes

R9-22-720. Reinsurance

#### ARTICLE 8. REPEALED

*Article 8, consisting of Sections R9-22-801 through R9-22-804 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).*

##### Section

- R9-22-801. Repealed
- R9-22-802. Repealed
- R9-22-803. Repealed
- R9-22-804. Repealed
- Exhibit A. Repealed
- R9-22-805. Repealed



**ARTICLE 9. REPEALED**

*Article 22, consisting of Sections R9-22-901 through R9-22-909, repealed by final rulemaking at 12 A.A.R. 4484, January 6, 2007 (Supp. 06-4).*

*Article 22, consisting of Sections R9-22-901 through R9-22-908, adopted effective August 29, 1985.*

*Former Article 22, consisting of Section R9-22-901, repealed effective October 1, 1983.*

## Section

R9-22-901.	Repealed
R9-22-902.	Repealed
R9-22-903.	Repealed
R9-22-904.	Repealed
R9-22-905.	Repealed
R9-22-906.	Repealed
R9-22-907.	Repealed
R9-22-908.	Repealed
R9-22-909.	Repealed

**ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**

*Article 10, consisting of Section R9-22-1001 through R9-22-1002, adopted effective November 7, 1997 (Supp. 97-4).*

*Article 10, consisting of Section R9-22-1001 through R9-22-1002, repealed effective November 7, 1997 (Supp. 97-4).*

*Article 10 consisting of Sections R9-22-1001 and R9-22-1002 adopted effective October 1, 1985.*

## Section

R9-22-1001.	Definitions
R9-22-1002.	General Provisions
R9-22-1003.	Cost Avoidance
R9-22-1004.	Member Participation
R9-22-1005.	Collections
R9-22-1006.	AHCCCS Monitoring Responsibilities
R9-22-1007.	Notification for Perfection, Recording, and Assignment of AHCCCS Liens
R9-22-1008.	Notification Information for Liens
R9-22-1009.	Notification of Health Insurance Information

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**

*Article 11 consisting of Sections R9-22-1101 through R9-22-1104 adopted effective October 1, 1986.*

## Section

R9-22-1101.	Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions
R9-22-1102.	Determining the Amount of a Penalty and an Assessment
R9-22-1103.	Repealed
R9-22-1104.	Mitigating Circumstances
R9-22-1105.	Aggravating Circumstances
R9-22-1106.	Notice of Intent
R9-22-1107.	Reserved
R9-22-1108.	Request for a Compromise
R9-22-1109.	Failure to Respond to the Notice of Intent
R9-22-1110.	Request for State Fair Hearing
R9-22-1111.	Issues and Burden of Proof
R9-22-1112.	Withdrawal and Continuances

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

*Article 12, consisting of Sections R9-22-1201 through R9-22-1208, repealed; new Article 12, consisting of Sections R9-22-1201*

*through R9-22-1208 adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4).*

## Section

R9-22-1201.	General Requirements
R9-22-1202.	ADHS and Contractor Responsibilities
R9-22-1203.	Eligibility for Covered Services
R9-22-1204.	General Service Requirements
R9-22-1205.	Scope and Coverage of Behavioral Health Services
R9-22-1206.	General Provisions and Standards for Service Providers
R9-22-1207.	General Provisions for Payment
R9-22-1208.	Repealed

**ARTICLE 13. CHILDREN'S REHABILITATIVE SERVICES (CRS)**

*Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).*

*Article 13, consisting of Sections R9-22-1301 through R9-22-1309, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).*

*Article 13, consisting of Sections R9-22-1301 through R9-22-1309, adopted effective September 9, 1998 (Supp. 98-3).*

## Section

R9-22-1301.	Children's Rehabilitative Services (CRS) Related Definitions
R9-22-1302.	Children's Rehabilitative Services (CRS) Eligibility Requirements
R9-22-1303.	Medical Eligibility
R9-22-1304.	Referral and Disposition of CRS Medical Eligibility Determination
R9-22-1305.	CRS Redetermination
R9-22-1306.	Transition or Termination
R9-22-1307.	Covered Services
R9-22-1308.	Repealed
R9-22-1309.	Repealed

**ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS**

*Article 14, consisting of Sections R9-22-1401 through R9-22-1436, repealed; new Article 14, consisting of Sections R9-22-1401 through R9-22-1433 made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).*

*Article 14, consisting of Sections R9-22-1401 through R9-22-1436, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).*

## Section

R9-22-1401.	General Information
R9-22-1402.	Ineligible Person
R9-22-1403.	Agency Responsible for Determining Eligibility
R9-22-1404.	Assignment of Rights Under Operation of Law
R9-22-1405.	Confidentiality and Safeguarding of Information
R9-22-1406.	Application Process
R9-22-1407.	Deceased Applicants
R9-22-1408.	Applicant and Member Responsibility
R9-22-1409.	Withdrawal of Application
R9-22-1410.	Department Responsibilities
R9-22-1411.	Withdrawal from AHCCCS Medical Coverage
R9-22-1412.	Verification of Eligibility Information
R9-22-1413.	Time-frames, Approval, Discontinuance, or Denial of an Application
R9-22-1414.	Review of Eligibility

- R9-22-1415. Notice of Adverse Action
- R9-22-1416. Effective Date of Eligibility
- R9-22-1417. Social Security Number
- R9-22-1418. State Residency
- R9-22-1419. Citizenship and Immigrant Status
- R9-22-1419.01. Repealed
- R9-22-1419.02. Repealed
- R9-22-1419.03. Repealed
- R9-22-1419.04. Repealed
- R9-22-1420. Income Eligibility Criteria
- R9-22-1421. Income Eligibility
- R9-22-1422. Methods for Calculating Monthly Income
- R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income
- R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income
- R9-22-1425. Sponsor Deemed Income
- R9-22-1426. Exemptions from Sponsor Deemed Income
- R9-22-1427. Eligibility for a Family
- R9-22-1428. Eligibility for a Person Not Eligible as a Family
- R9-22-1429. Eligibility for a Newborn
- R9-22-1430. Extended Medical Coverage for a Pregnant Woman
- R9-22-1431. Family Planning Services Extension Program (FPEP)
- R9-22-1432. Young Adult Transitional Insurance
- R9-22-1433. Special Groups for Children
- R9-22-1434. Repealed
- R9-22-1435. Eligibility for a Person With Medical Expenses Whose Income is Over 100 Percent FPL
- R9-22-1436. MED Family Unit
- R9-22-1437. MED Income Eligibility Requirements
- R9-22-1438. MED Resource Eligibility Requirements
- R9-22-1439. MED Effective Date of Eligibility
- R9-22-1440. MED Eligibility Period
- R9-22-1441. Eligibility Appeals
- R9-22-1442. Cessation of MED Coverage
- R9-22-1443. Closing New Eligibility for Persons Not Covered under the State Plan

#### **ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR DISABLED**

*Article 15, consisting of Sections R9-22-1501 through R9-22-1508, repealed; new Article 15, consisting of Sections R9-22-1501 through R9-22-1505 made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).*

*Article 15, consisting of Sections R9-22-1501 through R9-22-1508, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).*

##### **Section**

- R9-22-1501. General Information
- R9-22-1502. General Eligibility Criteria
- R9-22-1503. Financial Eligibility Criteria
- R9-22-1504. Eligibility For A Person Who is Aged, Blind, or Disabled
- R9-22-1505. Eligibility for Special Groups
- R9-22-1506. Repealed
- R9-22-1507. Repealed
- R9-22-1508. Repealed

#### **ARTICLE 16. SOCIAL SECURITY DISABILITY INSURANCE – TEMPORARY MEDICAL COVERAGE**

*Article 16, consisting of Sections R9-22-1601 through R9-22-1636, repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).*

*Article 16, consisting of Sections R9-22-1601 through R9-22-1613, R9-22-1615 through R9-22-1620, R9-22-1622 through R9-22-1631, R9-22-1633, R9-22-1634, and R9-22-1636, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).*

##### **Section**

- R9-22-1601. Expired
- R9-22-1602. Expired
- R9-22-1603. Expired
- R9-22-1604. Expired
- R9-22-1605. Expired
- R9-22-1606. Expired
- R9-22-1607. Expired
- R9-22-1608. Expired
- R9-22-1609. Expired
- R9-22-1610. Expired
- R9-22-1611. Expired
- R9-22-1612. Expired
- R9-22-1613. Repealed
- R9-22-1614. Expired
- R9-22-1615. Expired
- R9-22-1616. Expired
- R9-22-1617. Repealed
- R9-22-1618. Expired
- R9-22-1619. Expired
- R9-22-1620. Repealed
- R9-22-1621. Reserved
- R9-22-1622. Repealed
- R9-22-1623. Repealed
- R9-22-1624. Repealed
- R9-22-1625. Repealed
- R9-22-1626. Repealed
- R9-22-1627. Repealed
- R9-22-1628. Repealed
- R9-22-1629. Repealed
- R9-22-1630. Repealed
- R9-22-1631. Repealed
- R9-22-1632. Reserved
- R9-22-1633. Repealed
- R9-22-1634. Repealed
- R9-22-1635. Reserved
- R9-22-1636. Repealed

#### **ARTICLE 17. ENROLLMENT**

*Article 17, consisting of Sections R9-22-1701 through R9-22-1704, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).*

##### **Section**

- R9-22-1701. Enrollment-Related Definitions
- R9-22-1702. Enrollment of a Member with an AHCCCS Contractor
- R9-22-1703. Effective Date of Enrollment with a Contractor
- R9-22-1704. Newborn Enrollment
- R9-22-1705. Guaranteed Enrollment Period

#### **ARTICLE 18. RESERVED**

#### **ARTICLE 19. FREEDOM TO WORK**

*Article 19, consisting of Sections R9-22-1901 through R9-22-1922, made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).*

##### **Section**

- R9-22-1901. General Freedom to Work Requirements
- R9-22-1902. General Administration Requirements
- R9-22-1903. Application for Coverage

## Arizona Health Care Cost Containment System – Administration

R9-22-1904.	Notice of Approval or Denial	"Ancillary department"	R9-22-701
R9-22-1905.	Reporting and Verifying Changes	"Ancillary service"	R9-22-701
R9-22-1906.	Actions that Result from a Redetermination or Change	"Anticipatory guidance"	R9-22-201
		"Annual enrollment choice"	R9-22-1701
R9-22-1907.	Notice of Adverse Action Requirements	"APC"	R9-22-701
R9-22-1908.	Request for Hearing	"Appellant"	R9-22-101
R9-22-1909.	Conditions of Eligibility	"Applicant"	R9-22-101
R9-22-1910.	Repealed	"Application"	R9-22-101
R9-22-1911.	Repealed	"Assessment"	R9-22-1101
R9-22-1912.	Repealed	"Assignment"	R9-22-101
R9-22-1913.	Premium Requirements	"Attending physician"	R9-22-101
R9-22-1914.	Repealed	"Authorized representative"	R9-22-101
R9-22-1915.	Institutionalized Person	"Authorization"	R9-22-201
R9-22-1916.	Repealed	"Auto-assignment algorithm"	R9-22-1701
R9-22-1917.	Repealed	"AZ-NBCCEDP"	R9-22-2001
R9-22-1918.	Additional Eligibility Criteria for the Basic Coverage Group	"Baby Arizona"	R9-22-1401
		"Behavior management services"	R9-22-1201
R9-22-1919.	Additional Eligibility Criteria for the Medically Improved Group	"Behavioral health adult therapeutic home"	R9-22-1201
		"Behavioral health therapeutic home care services"	R9-22-1201
R9-22-1920.	Repealed	"Behavioral health evaluation"	R9-22-1201
R9-22-1921.	Enrollment	"Behavioral health medical practitioner"	R9-22-1201
R9-22-1922.	Redetermination of Eligibility	"Behavioral health professional"	A.A.C. R9-20-1201
		"Behavioral health recipient"	R9-22-201
		"Behavioral health service"	R9-22-1201
		"Behavioral health technician"	A.A.C. R9-20-1201
		"Benefit year"	R9-22-201
		"BHS"	R9-22-1401
		"Billed charges"	R9-22-701
		"Blind"	R9-22-1501
		"Burial plot"	R9-22-1401
		"Business agent"	R9-22-701 and R9-22-704
		"Calculated inpatient costs"	R9-22-712.07
		"Capital costs"	R9-22-701
		"Capped fee-for-service"	R9-22-101
		"Caretaker relative"	R9-22-1401
		"Case management"	R9-22-1201
		"Case record"	R9-22-101
		"Case review"	R9-22-101
		"Cash assistance"	R9-22-1401
		"Categorically eligible"	R9-22-101
		"CCR"	R9-22-712
		"Certified psychiatric nurse practitioner"	R9-22-1201
		"Charge master"	R9-22-712
		"Child"	R9-22-1503 and R9-22-1603
		"Children's Rehabilitative Services" or "CRS"	R9-22-101
		"Claim"	R9-22-1101
		"Claims paid amount"	R9-22-712.07
		"Clean claim"	A.R.S. § 36-2904
		"Clinical supervision"	R9-22-201
		"CMDP"	R9-22-1701
		"CMS"	R9-22-101
		"Continuous stay"	R9-22-101
		"Contract"	R9-22-101
		"Contract year"	R9-22-101
		"Contractor"	A.R.S. § 36-2901
		"Copayment"	R9-22-701, R9-22-711 and R9-22-1603
		"Cost avoid"	R9-22-1201
		"Cost-To-Charge Ratio"	R9-22-701
		"Covered charges"	R9-22-701
		"Covered services"	R9-22-101
		"CPT"	R9-22-701
		"Creditable coverage"	R9-22-2003 and 42 U.S.C. 300gg(c)
		"Critical Access Hospital"	R9-22-701
		"CRS"	R9-22-101
		"Cryotherapy"	R9-22-2001
		"Customized DME"	R9-22-212
		"Day"	R9-22-101 and R9-22-1101
		"Date of the Notice of Adverse Action"	R9-22-1441
		"DBHS"	R9-22-101
		"DCSE"	R9-22-1401
		"De novo hearing"	42 CFR 431.201
		"Dentures" and "Denture services"	R9-22-201

## ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM

### Section

R9-22-2001.	Breast and Cervical Cancer Treatment Program
	Related Definitions
R9-22-2002.	General Requirements
R9-22-2003.	Eligibility Criteria
R9-22-2004.	Treatment
R9-22-2005.	Application Process
R9-22-2006.	Approval, Denial, or Discontinuance of Eligibility
R9-22-2007.	Effective and End Date of Eligibility
R9-22-2008.	Redetermination of Eligibility

## ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Article 21, consisting of Sections R9-22-2101 through R9-22-2103, made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

### Section

R9-22-2101.	General Provisions
R9-22-2102.	Distribution of Trauma and Emergency Services Fund: Level I Trauma Centers
R9-22-2103.	Distribution of Trauma and Emergency Services Fund: Emergency Services
R9-22-2104.	Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

## ARTICLE 1. DEFINITIONS

### R9-22-101. Location of Definitions

#### A. Location of definitions. Definitions applicable to this Chapter are found in the following:

Definition	Section or Citation
"Accommodation"	R9-22-701
"Act"	R9-22-101
"ADHS"	R9-22-101
"Administration"	A.R.S. § 36-2901
"Adverse action"	R9-22-101
"Affiliated corporate organization"	R9-22-101
"Aged"	42 U.S.C. 1382c(a)(1)(A) and R9-22-1501
"Aggregate"	R9-22-701
"AHCCCS"	R9-22-101
"AHCCCS inpatient hospital day or days of care"	R9-22-701
"AHCCCS registered provider"	R9-22-101
"Ambulance"	A.R.S. § 36-2201

"Ancillary department"	R9-22-701
"Ancillary service"	R9-22-701
"Anticipatory guidance"	R9-22-201
"Annual enrollment choice"	R9-22-1701
"APC"	R9-22-701
"Appellant"	R9-22-101
"Applicant"	R9-22-101
"Application"	R9-22-101
"Assessment"	R9-22-1101
"Assignment"	R9-22-101
"Attending physician"	R9-22-101
"Authorized representative"	R9-22-101
"Authorization"	R9-22-201
"Auto-assignment algorithm"	R9-22-1701
"AZ-NBCCEDP"	R9-22-2001
"Baby Arizona"	R9-22-1401
"Behavior management services"	R9-22-1201
"Behavioral health adult therapeutic home"	R9-22-1201
"Behavioral health therapeutic home care services"	R9-22-1201
"Behavioral health evaluation"	R9-22-1201
"Behavioral health medical practitioner"	R9-22-1201
"Behavioral health professional"	A.A.C. R9-20-1201
"Behavioral health recipient"	R9-22-201
"Behavioral health service"	R9-22-1201
"Behavioral health technician"	A.A.C. R9-20-1201
"Benefit year"	R9-22-201
"BHS"	R9-22-1401
"Billed charges"	R9-22-701
"Blind"	R9-22-1501
"Burial plot"	R9-22-1401
"Business agent"	R9-22-701 and R9-22-704
"Calculated inpatient costs"	R9-22-712.07
"Capital costs"	R9-22-701
"Capped fee-for-service"	R9-22-101
"Caretaker relative"	R9-22-1401
"Case management"	R9-22-1201
"Case record"	R9-22-101
"Case review"	R9-22-101
"Cash assistance"	R9-22-1401
"Categorically eligible"	R9-22-101
"CCR"	R9-22-712
"Certified psychiatric nurse practitioner"	R9-22-1201
"Charge master"	R9-22-712
"Child"	R9-22-1503 and R9-22-1603
"Children's Rehabilitative Services" or "CRS"	R9-22-101
"Claim"	R9-22-1101
"Claims paid amount"	R9-22-712.07
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	R9-22-201
"CMDP"	R9-22-1701
"CMS"	R9-22-101
"Continuous stay"	R9-22-101
"Contract"	R9-22-101
"Contract year"	R9-22-101
"Contractor"	A.R.S. § 36-2901
"Copayment"	R9-22-701, R9-22-711 and R9-22-1603
"Cost avoid"	R9-22-1201
"Cost-To-Charge Ratio"	R9-22-701
"Covered charges"	R9-22-701
"Covered services"	R9-22-101
"CPT"	R9-22-701
"Creditable coverage"	R9-22-2003 and 42 U.S.C. 300gg(c)
"Critical Access Hospital"	R9-22-701
"CRS"	R9-22-101
"Cryotherapy"	R9-22-2001
"Customized DME"	R9-22-212
"Day"	R9-22-101 and R9-22-1101
"Date of the Notice of Adverse Action"	R9-22-1441
"DBHS"	R9-22-101
"DCSE"	R9-22-1401
"De novo hearing"	42 CFR 431.201
"Dentures" and "Denture services"	R9-22-201

## Arizona Health Care Cost Containment System – Administration

“Department”	A.R.S. § 36-2901	“LEEP”	R9-22-2001
“Dependent child”	A.R.S. § 46-101	“Legal representative”	R9-22-101
“DES”	R9-22-101	“Level I trauma center”	R9-22-2101
“Diagnostic services”	R9-22-101	“License” or “licensure”	R9-22-101
“Director”	R9-22-101	“Licensee”	R9-22-1201
“Disabled”	R9-22-1501	“Liquid assets”	R9-22-1401
“Discussion”	R9-22-101	“Mailing date”	R9-22-101
“Disenrollment”	R9-22-1701	“Medical education costs”	R9-22-701
“DME”	R9-22-101	“Medical expense deduction” or “MED”	R9-22-1401
“DRI inflation factor”	R9-22-701	“Medical record”	R9-22-101
“E.P.S.D.T. services”	42 CFR 440.40(b)	“Medical review”	R9-22-701
“Eligibility posting”	R9-22-701	“Medical services”	A.R.S. § 36-401
“Eligible person”	A.R.S. § 36-2901	“Medical supplies”	R9-22-201
“Emergency behavioral health condition for the non-FES member”	R9-22-201	“Medical support”	R9-22-1401
“Emergency behavioral health services for the non-FES member”	R9-22-201	“Medically necessary”	R9-22-101
“Emergency medical condition for the non-FES member”	R9-22-201	“Medicare claim”	R9-22-101
“Emergency medical services for the non-FES member”	R9-22-201	“Medicare HMO”	R9-22-101
“Emergency medical or behavioral health condition for a FES member”	R9-22-217	“Member”	A.R.S. § 36-2901
“Emergency services costs”	A.R.S. § 36-2903.07	“Mental disorder”	A.R.S. § 36-501
“Encounter”	R9-22-701	“Milliman study”	R9-22-712.07
“Enrollment”	R9-22-1701	“Monthly equivalent”	R9-22-1421 and R9-22-1603
“Enumeration”	R9-22-101	“Monthly income”	R9-22-1421 and R9-22-1603
“Equity”	R9-22-101	“National Standard code sets”	R9-22-701
“Experimental services”	R9-22-203	“New hospital”	R9-22-701
“Existing outpatient service”	R9-22-701	“NICU”	R9-22-701
“Expansion funds”	R9-22-701	“Noncontracted Hospital”	R9-22-718
“FAA”	R9-22-1401	“Noncontracting provider”	A.R.S. § 36-2901
“Facility”	R9-22-101	“Non-FES member”	R9-22-101
“Factor”	R9-22-701 and 42 CFR 447.10	“Non-IHS Acute Hospital”	R9-22-701
“FBR”	R9-22-101	“Nonparent caretaker relative”	R9-22-1401
“Federal financial participation” or “FFP”	42 CFR 400.203	“Notice of Findings”	R9-22-109
“Federal poverty level” or “FPL”	A.R.S. § 36-2981	“Nursing facility” or “NF”	42 U.S.C. 1396r(a)
“Fee-For-Service” or “FFS”	R9-22-101	“OBHL”	R9-22-1201
“FES member”	R9-22-101	“Observation day”	R9-22-701
“FESP”	R9-22-101	“Occupational therapy”	R9-22-201
“First-party liability”	R9-22-1001	“Offeror”	R9-22-101
“File”	R9-22-1101	“Operating costs”	R9-22-701
“Fiscal agent”	R9-22-210	“Organized health care delivery system”	R9-22-701
“Fiscal intermediary”	R9-22-701	“Outlier”	R9-22-701
“Foster care maintenance payment”	42 U.S.C. 675(4)(A)	“Outpatient hospital service”	R9-22-701
“FQHC”	R9-22-101	“Ownership change”	R9-22-701
“Free Standing Children’s Hospital”	R9-22-701	“Ownership interest”	42 CFR 455.101
“Fund”	R9-22-712.07	“Parent”	R9-22-1603
“Graduate medical education (GME) program”	R9-22-701	“Partial Care”	R9-22-1201
“Grievance”	A.A.C. R9-34-202	“Participating institution”	R9-22-701
“GSA”	R9-22-101	“Peer group”	R9-22-701
“HCPCS”	R9-22-701	“Peer-reviewed study”	R9-22-2001
“Health care practitioner”	R9-22-1201	“Penalty”	R9-22-1101
“Hearing aid”	R9-22-201	“Pharmaceutical service”	R9-22-201
“HIPAA”	R9-22-701	“Physical therapy”	R9-22-201
“Home health services”	R9-22-201	“Physician”	R9-22-101
“Homebound”	R9-22-1401	“Physician assistant”	R9-22-1201
“Hospital”	R9-22-101	“Post-stabilization services”	R9-22-201 or 42 CFR 422.113
“ICU”	R9-22-701	“PPC”	R9-22-701
“IHS”	R9-22-101	“PPS bed”	R9-22-701
“IHS enrolled” or “enrolled with IHS”	R9-22-708	“Practitioner”	R9-22-101
“IMD” or “Institution for Mental Diseases”	42 CFR 435.1010 and R9-22-101	“Pre-enrollment process”	R9-22-1401
“Income”	R9-22-1401 and R9-22-1603	“Premium”	R9-22-1603
“Indigent”	R9-22-1401	“Prescription”	R9-22-101
“Individual”	R9-22-211	“Primary care provider” or “PCP”	R9-22-101
“In-kind income”	R9-22-1420	“Primary care provider services”	R9-22-201
“Inmate of a public institution”	42 CFR 435.1010	“Prior authorization”	R9-22-101
“Inpatient covered charges”	R9-22-712.07	“Prior period coverage” or “PPC”	R9-22-701
“Insured entity”	R9-22-720	“Procedure code”	R9-22-701
“Interested party”	R9-22-101	“Proposal”	R9-22-101
“Intermediate Care Facility for the Mentally Retarded” or “ICF-MR”	42 U.S.C. 1396d(d)	“Prospective rates”	R9-22-701
“Intern and Resident Information System”	R9-22-701	“Psychiatrist”	R9-22-1201
		“Psychologist”	R9-22-1201
		“Psychosocial rehabilitation services”	R9-22-201
		“Public hospital”	R9-22-701
		“Qualified alien”	A.R.S. § 36-2903.03
		“Qualified behavioral health service provider”	R9-22-1201
		“Quality management”	R9-22-501
		“Radiology”	R9-22-101

## Arizona Health Care Cost Containment System – Administration

“RBHA” or “Regional Behavioral Health Authority”	R9-22-201
“Reason to know”	R9-22-1101
“Rebase”	R9-22-701
“Referral”	R9-22-101
“Rehabilitation services”	R9-22-101
“Reinsurance”	R9-22-701
“Remittance advice”	R9-22-701
“Resident”	R9-22-701
“Residual functional deficit”	R9-22-201
“Resources”	R9-22-1401
“Respiratory therapy”	R9-22-201
“Respite”	R9-22-1201
“Responsible offeror”	R9-22-101
“Responsive offeror”	R9-22-101
“Revenue Code”	R9-22-701
“Review”	R9-22-101
“Review month”	R9-22-101
“RFP”	R9-22-101
“Rural Contractor”	R9-22-718
“Rural Hospital”	R9-22-712.07 and R9-22-718
“Scope of services”	R9-22-201
“Section 1115 Waiver”	A.R.S. § 36-2901
“Service location”	R9-22-101
“Service site”	R9-22-101
“SOBRA”	R9-22-101
“Specialist”	R9-22-101
“Specialty facility”	R9-22-701
“Speech therapy”	R9-22-201
“Spendthrift restriction”	R9-22-1401
“Sponsor”	R9-22-1401
“Sponsor deemed income”	R9-22-1401
“Sponsoring institution”	R9-22-701
“Spouse”	R9-22-101
“SSA”	42 CFR 1000.10
“SSDI Temporary Medical Coverage”	R9-22-1603
“SSI”	42 CFR 435.4
“SSN”	R9-22-101
“Stabilize”	42 U.S.C. 1395dd
“Standard of care”	R9-22-101
“Sterilization”	R9-22-201
“Subcontract”	R9-22-101
“Submitted”	A.R.S. § 36-2904
“Substance abuse”	R9-22-201
“SVES”	R9-22-1401
“Taxi”	A.R.S. § 28-2515
“Therapeutic foster care services”	R9-22-1201
“Third-party”	R9-22-1001
“Third-party liability”	R9-22-1001
“Tier”	R9-22-701
“Tiered per diem”	R9-22-701
“Title IV-D”	R9-22-1401
“Title IV-E”	R9-22-1401
“Total Inpatient payments”	R9-22-712.07
“Trauma and Emergency Services Fund”	A.R.S. § 36-2903.07
“TRBHA” or “Tribal Regional Behavioral Health Authority”	R9-22-1201
“Treatment”	R9-22-2004
“Tribal Facility”	A.R.S. § 36-2981
“Unrecovered trauma center readiness costs”	R9-22-2101
“Urban Contractor”	R9-22-718
“Urban Hospital”	R9-22-718
“USCIS”	R9-22-1401
“Utilization management”	R9-22-501
“WWHP”	R9-22-2001

**B. General definitions.** In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Act” means the Social Security Act.

“ADHS” means the Arizona Department of Health Services.

“Adverse action” means an action taken by the Department or Administration to deny, discontinue, or reduce medical assistance.

“Affiliated corporate organization” means any organization that has ownership or control interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation.

“AHCCCS” means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

“AHCCCS registered provider” means a provider or noncontracting provider who:

Enters into a provider agreement with the Administration under R9-22-703(A), and

Meets license or certification requirements to provide covered services.

“Appellant” means an applicant or member who is appealing an adverse action by the Department or Administration.

“Applicant” means a person who submits or whose authorized representative submits a written, signed, and dated application for AHCCCS benefits.

“Application” means an official request for AHCCCS medical coverage made under this Chapter.

“Assignment” means enrollment of a member with a contractor by the Administration.

“Attending physician” means a licensed allopathic or osteopathic doctor of medicine who has primary responsibility for providing or directing preventive and treatment services for a Fee-For-Service member.

“Authorized representative” means a person who is authorized to apply for medical assistance or act on behalf of another person.

“Capped fee-for-service” means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific covered service or equipment provided to a member. A payment is made in accordance with an upper or capped limit established by the Director. This capped limit can either be a specific dollar amount or a percentage of billed charges.

“Case record” means an individual or family file retained by the Department that contains all pertinent eligibility information, including electronically stored data.

“Case review” means the Administration’s evaluation of an individual’s or family’s circumstances and case record in a review month.

“Categorically eligible” means a person who is eligible under A.R.S. §§ 36-2901(6)(a)(i), (ii), or (iii) or 36-2934.

“Children’s Rehabilitative Services” or “CRS” means the program that provides covered medical services and covered support services in accordance with A.R.S. § 36-261.

“CMS” means the Centers for Medicare and Medicaid Services.

“Continuous stay” means a period during which a member receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.

“Contract” means a written agreement entered into between a person, an organization, or other entity and the Administration to provide health care services to a member under A.R.S. Title 36, Chapter 29, and this Chapter.

“Contract year” means the period beginning on October 1 of a year and continuing until September 30 of the following year.

“Covered services” means the health and medical services described in Articles 2 and 12 of this Chapter as being eligible for reimbursement by AHCCCS.

“Day” means a calendar day unless otherwise specified.

“DBHS” means the Division of Behavioral Health Services within the Arizona Department of Health Services.

“DES” means the Department of Economic Security.

“Diagnostic services” means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.

“Director” means the Director of the Administration or the Director’s designee.

“Discussion” means an oral or written exchange of information or any form of negotiation.

“DME” means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.

“Enumeration” means the assignment of a nine-digit identification number to a person by the Social Security Administration.

“Equity” means the county assessor full cash value or market value of a resource minus valid liens, encumbrances, or both.

“Facility” means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution under A.R.S. Title 36, Chapter 4, to provide a medical service, a nursing service, or other health care or health-related service.

“FBR” means Federal Benefit Rate, the maximum monthly Supplemental Security Income payment rate for a member or a married couple.

“Fee-For-Service” or “FFS” means a method of payment by the AHCCCS Administration to a registered provider on an amount-per-service basis for a member not enrolled with a contractor.

“FES member” means a person who is eligible to receive emergency medical and behavioral health services through the FESP under R9-22-217.

“FESP” means the federal emergency services program under R9-22-217 which covers services to treat an emergency medical or behavioral health condition for a member who is determined eligible under A.R.S. § 36-2903.03(D).

“FQHC” means federally qualified health center.

“GSA” means a geographical service area designated by the Administration within which a contractor provides, directly or through a subcontract, a covered health care service to a member enrolled with the contractor.

“Hospital” means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined, by the Arizona Department of Health Services as the CMS designee, to meet the requirements of certification.

“IHS” means Indian Health Service.

“IMD” or “Institution for Mental Diseases” means an Institution for Mental Diseases as described in 42 CFR 435.1010 that is licensed by ADHS.

“Interested party” means an actual or prospective offeror whose economic interest may be directly affected by the issuance of an RFP, the award of a contract, or by the failure to award a contract.

“Legal representative” means a custodial parent of a child under 18, a guardian, or a conservator.

“License” or “licensure” means a nontransferable authorization that is granted based on established standards in law by a state or a county regulatory agency or board and allows a health care provider to lawfully render a health care service.

“Mailing date” when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

Shown on the postmark;

Shown on the postage meter mark of the envelope, if no postmark; or

Entered as the date on the document, if there is no legible postmark or postage meter mark.

“Medical record” means a document that relates to medical or behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and that is kept at the site of the provider.

“Medical supplies” means consumable items that are designed specifically to meet a medical purpose.

“Medically necessary” means a covered service is provided by a physician or other licensed practitioner of the healing arts within the scope of practice under state law to prevent disease, disability, or other adverse health conditions or their progression, or to prolong life.

“Medicare claim” means a claim for Medicare-covered services for a member with Medicare coverage.

“Medicare HMO” means a health maintenance organization that has a current contract with Centers for Medicare and Medicaid Services for participation in the Medicare program under 42 CFR 417(L).

“Non-FES member” means an eligible person who is entitled to full AHCCCS services.

“Offeror” means an individual or entity that submits a proposal to the Administration in response to an RFP.

“Physician” means a person licensed as an allopathic or osteopathic physician under A.R.S. Title 32, Chapter 13 or Chapter 17.

“Practitioner” means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a registered nurse practitioner certified under A.R.S. Title 32, Chapter 15.

“Prescription” means an order to provide covered services that is signed or transmitted by a provider authorized to prescribe the services.

“Primary care provider” or “PCP” means an individual who meets the requirements of A.R.S. § 36-2901(12) or (13), and who is responsible for the management of a member’s health care.

“Prior authorization” means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services based on factors including but not limited to medical necessity, cost effectiveness, compliance with this Article and any applicable contract provisions. Prior authorization is not a guarantee of payment.

“Prior period coverage” means the period prior to the member’s enrollment during which a member is eligible for cov-

ered services. PPC begins on the first day of the month of application or the first eligible month, whichever is later, and continues until the day the member is enrolled with a contractor.

“Proposal” means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.

“Radiology” means professional and technical services rendered to provide medical imaging, radiation oncology, and radioisotope services.

“Referral” means the process by which a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.

“Rehabilitation services” means physical, occupational, and speech therapies, and items to assist in improving or restoring a person’s functional level.

“Responsible offeror” means an individual or entity that has the capability to perform the requirements of a contract and that ensures good faith performance.

“Responsive offeror” means an individual or entity that submits a proposal that conforms in all material respects to an RFP.

“Review” means a review of all factors affecting a member’s eligibility.

“Review month” means the month in which the individual’s or family’s circumstances and case record are reviewed.

“RFP” means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

“Service location” means a location at which a member obtains a covered service provided by a physician or other licensed practitioner of the healing arts under the terms of a contract.

“Service site” means a location designated by a contractor as the location at which a member is to receive covered services.

“S.O.B.R.A.” means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII).

“Specialist” means a Board-eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty. For the purposes of this definition, Board-eligible means a physician who meets all the requirements for certification but has not tested for or has not been issued certification.

“Spouse” means a person who has entered into a contract of marriage recognized as valid by this state.

“SSN” means Social Security number.

“Standard of care” means a medical procedure or process that is accepted as treatment for a specific illness, injury, or medical condition through custom, peer review, or consensus by the professional medical community.

“Subcontract” means an agreement entered into by a contractor with any of the following:

A provider of health care services who agrees to furnish covered services to a member,

A marketing organization, or

Any other organization or person that agrees to perform any administrative function or service for the contractor specifically related to securing or fulfilling the contractor’s obligation to the Administration under the terms of a contract..

“Taxi” is as defined in A.R.S. § 28-2515.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-101 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-101 repealed, former Sections R9-22-102 and R9-22-301 renumbered as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency by adding new paragraphs (24), (46), (84) and (91) and renumbering accordingly effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency by adding new paragraphs (2) and (15) and renumbering accordingly effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment added paragraphs (2) and (15) and renumbered accordingly effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended paragraphs (10) and (15) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended by deleting paragraphs (39) and (62) and renumbering accordingly effective July 1, 1988 (Supp. 88-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 8, 1997 (Supp. 97-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final

rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3830, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1).

**R9-22-102. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-102 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1092 (Supp. 82-4). Former Section R9-22-102 renumbered together with former Section R9-22-301 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section adopted effective December 8, 1997 (Supp. 97-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Section repealed by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3).

**R9-22-103. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-104. Reserved****R9-22-105. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

**R9-22-106. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

**R9-22-107. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

**R9-22-108. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

**R9-22-109. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. effective 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-110. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

**R9-22-111. Reserved****R9-22-112. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Repealed by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

**R9-22-113. Reserved****R9-22-114. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

**R9-22-115. Repealed****Historical Note**

Final Section adopted at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).



**R9-22-116. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-117. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**R9-22-118. Reserved****R9-22-119. Reserved****R9-22-120. Repealed****Historical Note**

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

**ARTICLE 2. SCOPE OF SERVICES****R9-22-201. Scope of Services-related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Anticipatory guidance” means a person responsible for a child receives information and guidance of what the person should expect of the child’s development and how to help the child stay healthy.

“Behavioral health recipient” means a Title XIX or Title XXI acute care member who is eligible for, and is receiving, behavioral health services through ADHS/DBHS.

“Benefit year” means a one-year time period of October 1st through September 30th.

“Clinical supervision” means a Clinical Supervisor under 9 A.A.C. 20, Article 2 reviews the skills and knowledge of the individual supervised and provides guidance in improving or developing the skills and knowledge.

“Emergency behavioral health condition for a non-FES member” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

Placing the health of the person, including mental health, in serious jeopardy;

Serious impairment to bodily functions;

Serious dysfunction of any bodily organ or part; or

Serious physical harm to another person.

“Emergency behavioral health services for a non-FES member” means those behavioral health services provided for the treatment of an emergency behavioral health condition.

“Emergency medical condition for a non-FES member” means treatment for a medical condition, including labor and delivery, that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine,

could reasonably expect the absence of immediate medical attention to result in:

Placing the member’s health in serious jeopardy,

Serious impairment to bodily functions, or

Serious dysfunction of any bodily organ or part.

“Emergency medical services for non-FES member” means services provided for the treatment of an emergency medical condition.

“Hearing aid” means an instrument or device designed for, or represented by the supplier as aiding or compensating for impaired or defective human hearing, and includes any parts, attachments, or accessories of the instrument or device.

“Home health services” means services and supplies that are provided by a home health agency that coordinates in-home intermittent services for curative, rehabilitative care, including home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.

“Occupational therapy” means medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual’s ability to perform tasks required for independent functioning.

“Pharmaceutical service” means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.

“Physical therapy” means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

“Post-stabilization services” means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.

“Primary care provider services” means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.

“Psychosocial rehabilitation services” means services that provide education, coaching, and training to address or prevent residual functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:

Living skills training,

Cognitive rehabilitation,

Health promotion,

Supported employment, and

Other services that increase social and communication skills to maximize a member’s ability to participate in the community and function independently.

“RBHA” or “Regional Behavioral Health Authority” means the same as in A.R.S. § 36-3401.

“Residual functional deficit” means a member’s inability to return to a previous level of functioning, usually after experiencing a severe psychotic break or state of decompensation.

“Respiratory therapy” means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

“Scope of services” means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

“Speech therapy” means medically prescribed diagnostic and treatment services provided by or under the supervision of a certified speech therapist.

“Sterilization” means a medically necessary procedure, not for the purpose of family planning, to render an eligible person or member barren in order to:

Prevent the progression of disease, disability, or adverse health conditions; or

Prolong life and promote physical health.

“Substance abuse” means the chronic, habitual, or compulsive use of any chemical matter that, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse for adults who are 21 years of age or older.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-201 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3).

#### R9-22-202. General Requirements

- A.** For the purposes of this Article, the following definitions apply:
- “Authorization” means written, verbal, or electronic authorization by:
    - The Administration for services rendered to a fee-for-service member, or
    - The contractor for services rendered to a prepaid capitated member.
  - Use of the phrase “attending physician” applies only to the fee-for-service population.
- B.** In addition to other requirements and limitations specified in this Chapter, the following general requirements apply:
- Only medically necessary, cost effective, and federally-reimbursable and state-reimbursable services are covered services.
  - Covered services for the federal emergency services program (FESP) are under R9-22-217.
  - The Administration or a contractor may waive the covered services referral requirements of this Article.
  - Except as authorized by the Administration or a contractor, a primary care provider, attending physician, practi-

tioner, or a dentist shall provide or direct the member’s covered services. Delegation of the provision of care to a practitioner does not diminish the role or responsibility of the primary care provider.

- A contractor shall offer a female member direct access to preventive and routine services from gynecology providers within the contractor’s network without a referral from a primary care provider.
- A member may receive behavioral health services as specified in Articles 2 and 12.
- AHCCCS or a contractor shall provide services under the Section 1115 Waiver as defined in A.R.S. § 36-2901.
- An AHCCCS registered provider shall provide covered services within the provider’s scope of practice.
- In addition to the specific exclusions and limitations otherwise specified under this Article, the following are not covered:
  - A service that is determined by the AHCCCS Chief Medical Officer to be experimental or provided primarily for the purpose of research;
  - Services or items furnished gratuitously, and
  - Personal care items except as specified under R9-22-212.
- Medical or behavioral health services are not covered services if provided to:
  - An inmate of a public institution;
  - A person who is in residence at an institution for the treatment of tuberculosis; or
  - A person age 21 through 64 who is in an IMD, unless the service is covered under Article 12 of this Chapter.
- The Administration or a contractor may deny payment of non-emergency services if prior authorization is not obtained as specified in this Article and Article 7 of this Chapter. The Administration or a contractor shall not provide prior authorization for services unless the provider submits documentation of the medical necessity of the treatment along with the prior authorization request.
- Services under A.R.S. § 36-2908 provided during the prior period coverage do not require prior authorization.
- Prior authorization is not required for services necessary to evaluate and stabilize an emergency medical condition. The Administration or a contractor shall not reimburse services that require prior authorization unless the provider documents the diagnosis and treatment.
- A service is not a covered service if provided outside the GSA unless one of the following applies:
  - A member is referred by a primary care provider for medical specialty care outside the GSA. If a member is referred outside the GSA to receive an authorized medically necessary service, the contractor shall also provide all other medically necessary covered services for the member;
  - There is a net savings in service delivery costs as a result of going outside the GSA that does not require undue travel time or hardship for a member or the member’s family;
  - The contractor authorizes placement in a nursing facility located out of the GSA; or
  - Services are provided during prior period coverage.
- If a member is traveling or temporarily residing outside of the GSA, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in this Chapter and in contract.

- I.** The Administration shall determine the circumstances under which a FFS member may receive services, other than emergency services, from service providers outside the member's county of residence or outside the state. Criteria considered by the Administration in making this determination shall include availability and accessibility of appropriate care and cost effectiveness.
- J.** The restrictions, limitations, and exclusions in this Article do not apply to the following:
1. Public and private employers selecting AHCCCS as a health care option for their employees according to 9 A.A.C. 27, and
  2. A contractor electing to provide noncovered services.
    - a. The Administration shall not consider the costs of providing a noncovered service to a member in the development or negotiation of a capitation rate.
    - b. A contractor shall pay for noncovered services from administrative revenue or other contractor funds that are unrelated to the provision of services under this Chapter.
- K.** Subject to CMS approval, the restrictions, limitations, and exclusions specified in the following subsections do not apply to American Indians receiving services through IHS or a tribal health program operating under P.L. 93-638 when those services are eligible for 100 percent federal financial participation:
1. R9-22-205(A)(8),
  2. R9-22-205(B)(4)(f),
  3. R9-22-206,
  4. R9-22-207,
  5. R9-22-212(C),
  6. R9-22-212(D),
  7. R9-22-212(E)(8),
  8. R9-22-215(C)(2), and
  9. R9-22-215(C)(5).
- safe and effective treatment for the condition for which it is intended or used.
2. The service does not meet the standard in subsection (A)(1), but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of the evidence in peer-reviewed articles in medical journals published in the United States.
  3. The service does not meet the standard in subsection (A)(2) because the condition for which the service is intended or used is rare, but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of opinions from specialists who provide the service or related services.
- B.** The following factors shall be considered when evaluating the weight of peer-reviewed articles or the opinions of specialists:
1. The mortality rate and survival rate of the service as compared to the rates for alternative non-experimental services.
  2. The types, severity, and frequency of complications associated with the services as compared with the complications associated with alternative non-experimental services.
  3. The frequency with which the service has been performed in the past.
  4. Whether there is sufficient historical information regarding the service to provide reliable data regarding risks and benefits.
  5. The reputation and experience of the authors and/or specialists and their record in related areas.
  6. The extent to which medical science in the area develops rapidly and the probability that more definite data will be available in the foreseeable future.
  7. Whether the peer reviewed article describes a random controlled trial or an anecdotal clinical case study.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-202 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective December 13, 1993 (Supp. 93-4).

Amended effective July 1, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 322, § 21; filed with the Office of the Secretary of State June 22, 1995 (Supp. 95-3). Amended effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

#### R9-22-203. Experimental Services

- A.** Experimental services are not covered. A service is not experimental if:
1. It is generally and widely accepted as a standard of care in the practice of medicine in the United States and is a

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-203 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective September 29, 1992 (Supp. 92-3).

Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

#### R9-22-204. Inpatient General Hospital Services

- A.** A contractor, fee-for-service provider or noncontracting provider shall render inpatient general hospital services including:
1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for:
    - a. Maternity care, including labor, delivery, and recovery room, birthing center, and newborn nursery;
    - b. Neonatal intensive care unit (NICU);
    - c. Intensive care unit (ICU);
    - d. Surgery, including surgery room and recovery room;

- e. Nursery and related services;
  - f. Routine care; and
  - g. Emergency behavioral health services provided under Article 12 of this Chapter for a member eligible under A.R.S. § 36-2901(6)(a).
2. Ancillary services as specified by the Director and included in contract:
- a. Laboratory services;
  - b. Radiological and medical imaging services;
  - c. Anesthesiology services;
  - d. Rehabilitation services;
  - e. Pharmaceutical services and prescription drugs;
  - f. Respiratory therapy;
  - g. Blood and blood derivatives; and
  - h. Central supply items, appliances, and equipment that are not ordinarily furnished to all patients and customarily reimbursed as ancillary services.
- B.** The following limitations apply to inpatient general hospital services that are provided by FFS providers.
1. Providers shall obtain prior authorization from the Administration for the following inpatient hospital services:
    - a. Nonemergency and elective admission, including psychiatric hospitalization;
    - b. Elective surgery; and
    - c. Services or items provided to cosmetically reconstruct or improve personal appearance after an illness or injury.
  2. The Administration or a contractor may deny a claim if a provider fails to obtain prior authorization.
  3. Providers are not required to obtain prior authorization from the Administration for the following inpatient hospital services:
    - a. Voluntary sterilization,
    - b. Dialysis shunt placement,
    - c. Arteriovenous graft placement for dialysis,
    - d. Angioplasties or thrombectomies of dialysis shunts,
    - e. Angioplasties or thrombectomies of arteriovenous graft for dialysis,
    - f. Hospitalization for vaginal delivery that does not exceed 48 hours,
    - g. Hospitalization for cesarean section delivery that does not exceed 96 hours, and
    - h. Other services identified by the Administration through the Provider Participation Agreement.
  4. The Administration may perform concurrent review for hospitalizations of non-FES members to determine whether there is medical necessity for the hospitalization. A provider shall notify the Administration no later than 72 hours after an emergency admission.
- C.** Coverage of in-state and out-of-state inpatient hospital services is limited to 25 days per benefit year for members age 21 and older. The limit applies for all inpatient hospital services with dates of service during the benefit year regardless of whether the member is enrolled in Fee for Service, is enrolled with one or more contractors, or both, during the benefit year.
1. For purposes of calculating the limit:
    - a. Inpatient days are counted towards the limit if paid by the Administration or a contractor;
    - b. Inpatient days will be counted toward the limit in the order of the adjudication date of a paid claim;
    - c. Paid inpatient days are allocated to the benefit year in which the date of service occurs;
    - d. Each 24 hours of paid observation services is counted as one inpatient day if the patient is not admitted to the same hospital directly following the observation services;
    - e. Observation services, which are directly followed by an inpatient admission to the same hospital are not counted towards the inpatient limit; and
    - f. After 25 days of inpatient hospital services have been paid as provided for in this Section:
      - i. Outpatient services that are directly followed by an inpatient admission to the same hospital, including observation services, are not covered.
      - ii. Continuous periods of observation services of less than 24 hours that are not directly followed by an inpatient admission to the same hospital are covered.
      - iii. For continuous periods of observation services of 24 hours or more that are not directly followed by an inpatient admission to the same hospital, 23 hours of observations services are covered.
  2. The following inpatient days are not included in the inpatient hospital limitation described in this Section:
    - a. Days reimbursed under specialty contracts between AHCCCS and a transplant facility that are included within the component pricing referred to in the contract;
    - b. Days related to Behavioral Health:
      - i. Inpatient days that qualify for the psychiatric tier under R9-22-712.09 and reimbursed by the Administration or its contractors, or
      - ii. Inpatient days with a primary psychiatric diagnosis code reimbursed by the Administration or its contractors, or
      - iii. Inpatient days paid by the Arizona Department of Health Services Division of Behavioral Health Services or a RBHA or TRBHA.
    - c. Days related to treatment for burns and burn late effects at an American College of Surgeons verified burn center;
    - d. Same Day Admit Discharge services are excluded from the 25 day limit; and
    - e. Subject to approval by CMS, days for which the state claims 100% FFP, such as payments for days provided by IHS or 638 facilities.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-204 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1745, effective October 1, 2012 (Supp. 12-2).

**R9-22-205. Attending Physician, Practitioner, and Primary Care Provider Services**

A. A primary care provider, attending physician, or practitioner shall provide primary care provider services within the provider's scope of practice under A.R.S. Title 32. A member may receive primary care provider services in an inpatient or outpatient setting including at a minimum:

1. Periodic health examination and assessment;
2. Evaluation and diagnostic workup;
3. Medically necessary treatment;
4. Prescriptions for medication and medically necessary supplies and equipment;
5. Referral to a specialist or other health care professional if medically necessary;
6. Patient education;
7. Home visits if medically necessary; and
8. Except as provided in subsection (B), preventive health services, such as, immunizations, colonoscopies, mammograms and PAP smears.

B. The following limitations and exclusions apply to attending physician and practitioner services and primary care provider services:

1. Specialty care and other services provided to a member upon referral from a primary care provider, or to a member upon referral from the attending physician or practitioner are limited to the service or condition for which the referral is made, or for which authorization is given by the Administration or a contractor.
2. A member's physical examination is not covered if the sole purpose is to obtain documentation for one or more of the following:
  - a. Qualification for insurance,
  - b. Pre-employment physical evaluation,
  - c. Qualification for sports or physical exercise activities,
  - d. Pilot's examination for the Federal Aviation Administration,
  - e. Disability certification to establish any kind of periodic payments,
  - f. Evaluation to establish third-party liabilities, or
  - g. Physical ability to perform functions that have no relationship to primary objectives of the services listed in subsection (A).
3. Orthognathic surgery is covered only for a member who is less than 21 years of age;
4. The following services are excluded from AHCCCS coverage:
  - a. Infertility services, reversal of surgically induced infertility (sterilization), and gender reassignment surgeries;
  - b. Pregnancy termination counseling services;
  - c. Pregnancy terminations, unless required by state or federal law.
  - d. Services or items furnished solely for cosmetic purposes;
  - e. Hysterectomies unless determined medically necessary; and
  - f. Preventive services not covered are well exams, meaning physical examinations in the absence of any known disease or symptom or any specific medical complaint by the patient precipitating the examination.

**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-

3). Former Section R9-22-205 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A), paragraph (15) and added paragraph (20) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(2) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

*Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not published as a proposed rule in the Arizona Administrative Register; the rule was not reviewed or approved by the Governor's Regulatory Review Council; and the agency was not required to hold public hearings on the rule. This Section was subsequently amended through the regular rulemaking process.*

**R9-22-206. Organ and Tissue Transplant Services**

A. Organ and tissue transplant services are covered for a member if prior authorized and coordinated with the member's contractor, or the Administration. Only the following transplants are covered for individuals 21 years of age or older:

1. Heart, including transplants for the treatment of non-ischemic cardiomyopathy;
2. Liver, including transplants for patients with hepatitis C;
3. Kidney (cadaveric and live donor),
4. Simultaneous Pancreas/Kidney (SPK),
5. Autologous and Allogeneic related and unrelated Hematopoietic Cell transplants;
6. Cornea;
7. Bone;
8. Lung; and
9. Pancreas after a kidney transplant (PAK).

B. The following transplants are not covered for members 21 years of age or older:

1. Pancreas only transplants if it is not performed simultaneously with or following a kidney transplant. Partial pancreas transplants and autologous and allogeneic pancreas islet cell transplants are not covered even if performed simultaneously with or following a kidney transplant,
2. Intestine transplants, and
3. Any other type of transplant not specifically listed in subsection (A).

C. When there is a transplant of multiple organs, reimbursement will only be made for those covered.

D. Organ and tissue transplant services are not covered for non-qualified aliens or noncitizens members of FESP under A.R.S. § 36-2903.03(D).

**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-206 adopted as an emergency now adopted and amended as a permanent rule effective

August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-206 renumbered to R9-22-218, new Section R9-22-206 adopted effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1386, effective July 15, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1122, April 1, 2011 (Supp. 11-2).

#### **R9-22-207. Dental Services**

- A.** The Administration or a contractor shall cover dental services for a member less than 21 years of age under R9-22-213.
- B.** For individuals age 21 years of age or older, the Administration or a contractor shall cover medical and surgical services furnished by a dentist only to the extent such services may be performed under state law either by a physician or by a dentist and such services would be considered a physician service if furnished by a physician.
  1. Except as specified in subsection (C), such services must be related to the treatment of a medical condition such as acute pain, infection, or fracture of the jaw. Covered dental services include examination of the oral cavity, radiographs, complex oral surgical procedures such as treatment of maxillofacial fractures, administration of an appropriate level of anesthesia and the prescription of pain medication and antibiotics.
  2. Such services do not include services that physicians are not generally competent to perform such as dental cleanings, routine dental examinations, dental restorations including crowns and fillings, extractions, pulpotomies, root canals, and the construction or delivery of complete or partial dentures. Diagnosis and treatment of temporomandibular joint dysfunction are not covered except for the reduction of trauma.
- C.** For the purposes of this subsection, simple restorations means silver amalgam or composite resin fillings, stainless steel crowns or preformed crowns. In addition, dental services for an individual 21 years of age or older include:
  1. The elimination of oral infections and the treatment of oral disease, which includes dental cleanings, treatment of periodontal disease, medically necessary extractions and the provision of simple restorations as a medically necessary pre-requisite to covered transplantation; and
  2. Prophylactic extraction of teeth in preparation for covered radiation treatment of cancer of the jaw, neck or head.

#### **Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-207 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-207 repealed, new Section R9-22-207 adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3).

Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

#### **R9-22-208. Laboratory, Radiology, and Medical Imaging Services**

Laboratory, radiology, and medical imaging services are covered services if:

1. Prescribed by the member's attending physician, practitioner, primary care provider or a dentist, or prescribed by a physician or practitioner upon referral from the primary care provider or dentist.
2. Provided by licensed health care providers in a:
  - a. Hospital,
  - b. Clinic,
  - c. Physician's office, or
  - d. Other health care facility.

#### **Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-208 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-208 repealed, new Section R9-22-208 adopted effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2).

#### **R9-22-209. Pharmaceutical Services**

- A.** An inpatient or outpatient provider, including a hospital, clinic, other appropriately licensed health care facility, and pharmacy may provide covered pharmaceutical services.
- B.** The Administration or a contractor shall require a provider to make pharmaceutical services:
  1. Available during customary business hours, and
  2. Located within reasonable travel distance of a member's residence.
- C.** Pharmaceutical services are covered if:
  1. Prescribed for a member by the member's primary care provider, attending physician, practitioner, or dentist;
  2. Prescribed by a specialist upon referral from the primary care provider or attending physician; or
  3. The contractor or its designee authorizes the service.
- D.** The following limitations apply to pharmaceutical services:
  1. A medication personally dispensed by a physician, dentist, or a practitioner within the individual's scope of practice is not covered, except in geographically remote areas where there is no participating pharmacy or if accessible pharmacies are closed.
  2. A prescription or refill in excess of 100-unit doses is not covered. A prescription or refill in excess of a 30 day supply is not covered unless specified in subsection (D)(3).
  3. A prescription or refill in excess of a 30-day supply is covered if:
    - a. The medication is prescribed for chronic illness and the prescription is limited to no more than a 100-day supply or 100-unit doses, whichever is greater.
    - b. The member will be out of the provider's service area for an extended period of time and the prescription is limited to the extended time period, not to exceed 100 day supply or 100-unit doses, whichever is greater.

- c. The medication is prescribed for contraception and the prescription is limited to no more than a 100-day supply.
  - 4. An over-the-counter medication, in place of a covered prescription medication, is covered only if the over-the-counter medication is appropriate, equally effective, safe, and less costly than the covered prescription medication.
- E. A contractor shall monitor and ensure sufficient services to prevent any gap in the pharmaceutical regimen of a member who requires a continuing or complex regimen of pharmaceutical treatment to restore, improve, or maintain physical well being.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-209 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 24, 1986 (Supp. 86-5). Amended subsections (A) and (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(3), effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2).

### R9-22-210. Emergency Medical Services for Non-FES Members

#### A. General provisions.

- 1. Applicability. This Section applies to emergency medical services for non-FES members. Provisions regarding emergency behavioral health services for non-FES members are in R9-22-210.01. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
- 2. Definitions.
  - a. For the purposes of this Section, “contractor” has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS or a subcontractor of ADHS/DBHS, or Children’s Rehabilitative Services.
  - b. For the purposes of this Section and R9-22-210.01, “fiscal agent” means a person who bills and accepts payment for a hospital or emergency room provider.
- 3. Verification. A provider of emergency medical services shall verify a person’s eligibility status with AHCCCS, and if eligible, determine whether the person is enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor.
- 4. Prior authorization.
  - a. Emergency medical services. A provider is not required to obtain prior authorization for emergency medical services.
  - b. Non-emergency medical services. If a non-FES member’s medical condition does not require emergency medical services, the provider shall obtain prior authorization as required by the terms of the provider agreement under R9-22-714(A) or the provider’s subcontract with the contractor, whichever is applicable.

- 5. Prohibition against denial of payment. Neither the Administration nor a contractor shall:
      - a. Limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms,
      - b. Deny or limit payment because the provider failed to obtain prior authorization for emergency services,
      - c. Deny or limit payment because the provider does not have a subcontract.
    - 6. Grounds for denial. The Administration and a contractor may deny payment for emergency medical services for reasons including but not limited to:
      - a. The claim was not a clean claim;
      - b. The claim was not submitted timely; and
      - c. The provider failed to provide timely notification under subsection (B)(4) to the contractor or the Administration, as appropriate, and the contractor does not have actual notice from any other source that the member has presented for services.
- B. Additional requirements for emergency medical services for non-FES members enrolled with a contractor.
  - 1. Responsible entity. A contractor is responsible for the provision of all emergency medical services to non-FES members enrolled with the contractor.
  - 2. Prohibition against denial of payment. A contractor shall not limit or deny payment for emergency medical services when an employee of the contractor instructs the member to obtain emergency medical services.
  - 3. Contractor notification. A contractor shall not deny payment to a hospital, emergency room provider, or fiscal agent for an emergency medical service rendered to a non-FES member based on the failure of the hospital, emergency room provider, or fiscal agent to notify the member’s contractor within 10 days from the day that the member presented for the emergency medical service.
  - 4. Contractor notification. A hospital, emergency room provider, or fiscal agent shall notify the contractor no later than the 11th day after presentation of the non-FES member for emergency inpatient medical services. A contractor may deny payment for a hospital’s, emergency room provider’s, or fiscal agent’s failure to provide timely notice, under this subsection.
- C. Post-stabilization services for non-FES members enrolled with a contractor.
  - 1. After the emergency medical condition of a member enrolled with a contractor is stabilized, a provider shall request prior authorization from the contractor for post-stabilization services.
  - 2. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that have been prior authorized by the contractor.
  - 3. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain the member’s stabilized condition within one hour of a request to the contractor for prior authorization of further post-stabilization services;
  - 4. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain, improve, or resolve the member’s stabilized condition if:
    - a. The contractor does not respond to a request for prior authorization within one hour;
    - b. The contractor authorized to give the prior authorization cannot be contacted; or

- c. The contractor representative and the treating physician cannot reach an agreement concerning the member's care and the contractor physician is not available for consultation. In this situation, the contractor shall give the treating physician the opportunity to consult with a contractor physician. The treating physician may continue with care of the member until the contractor physician is reached or:
    - i. A contractor physician with privileges at the treating hospital assumes responsibility for the member's care,
    - ii. A contractor physician assumes responsibility for the member's care through transfer,
    - iii. The contractor's representative and the treating physician reach agreement concerning the member's care, or
    - iv. The member is discharged.
  5. Transfer or discharge. The attending physician or practitioner actually treating the member for the emergency medical condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor.
- D. Additional requirements for FFS members.**
1. Responsible entity. The Administration is responsible for the provision of all emergency medical services to non-FES FFS members.
  2. Grounds for denial. The Administration may deny payment for emergency medical services if a provider fails to provide timely notice to the Administration.
  3. Notification. A provider shall notify the Administration no later than 72 hours after a FFS member receiving emergency medical services presents to a hospital for inpatient services. The Administration may deny payment for failure to provide timely notice.
- Historical Note**
- Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-210 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-210 repealed, new Section R9-22-210 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (1) effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).
- R9-22-210.01. Emergency Behavioral Health Services for Non-FES Members**
- A. General provisions.**
1. Applicability. This Section applies to emergency behavioral health services for non-FES members. Provisions regarding emergency medical services for non-FES members are in R9-22-210. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
2. Definition. For the purposes of this Section, "contractor" has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS, a subcontractor of ADHS/DBHS, or Children's Rehabilitative Services.
  3. Responsible entity for inpatient emergency behavioral health services.
    - a. Members enrolled with a contractor.
      - i. ADHS/DBHS. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services to non-FES members with psychiatric or substance abuse diagnoses who are enrolled with the contractor, from one of the following time periods, whichever comes first:
        - (1) The date on which the member becomes a behavioral health recipient, or
        - (2) The 73rd hour after admission for inpatient emergency behavioral health services.
      - ii. Contractors. Contractors are responsible for providing inpatient emergency behavioral health services to non-FES members with psychiatric or substance abuse diagnoses who are enrolled with a contractor and are not behavioral health recipients, for the first 72 hours after admission.
    - b. FFS members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services for non-FES FFS members with psychiatric or substance abuse diagnoses.
  4. Responsible entity for non-inpatient emergency behavioral health services for non-FES members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all non-inpatient emergency behavioral health services for non-FES members.
  5. Verification. A provider of emergency behavioral health services shall verify a person's eligibility status with AHCCCS, and if eligible, determine whether the person is a member enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor, and determine whether the member is a behavioral health recipient as defined in R9-22-102.
  6. Prior authorization.
    - a. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
    - b. Non-emergency behavioral health services. When a non-FES member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor and ADHS/DBHS or a subcontractor of ADHS/DBHS.
  7. Prohibition against denial of payment. A contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services to a non-FES member for the following reasons:
    - a. On the basis of lists of diagnoses or symptoms;
    - b. Prior authorization was not obtained;
    - c. The provider does not have a contract;
    - d. An employee of the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS instructs the member to obtain emergency behavioral health services; or



- e. The failure of a hospital, emergency room provider, or fiscal agent to notify the member's contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS within 10 days from the day the member presented for the emergency service.
- 8. Grounds for denial. A contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS may deny payment for emergency behavioral health services for reasons including but not limited to the following:
  - a. The claim was not a clean claim;
  - b. The claim was not submitted timely; or
  - c. The provider failed to provide timely notification under subsection (A)(9) to the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS.
- 9. Notification. A hospital, emergency room provider, or fiscal agent shall notify a contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, whichever is appropriate, no later than the 11th day from presentation of the non-FES member for emergency inpatient behavioral health services.
- 10. Behavioral health evaluation. An emergency behavioral health evaluation is covered as an emergency behavioral health service for a non-FES member under this Section if:
  - a. Required to evaluate or stabilize an acute episode of mental disorder or substance abuse, and
  - b. Provided by a qualified provider who is:
    - i. A behavioral health medical practitioner as defined in R9-22-112, including a licensed psychologist, a licensed clinical social worker, a licensed professional counselor, and a licensed marriage and family therapist; or
    - ii. An ADHS/DBHS-contracted provider.
- 11. Transfer or discharge. The attending physician or the provider actually treating the non-FES member for the emergency behavioral health condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor and ADHS/DBHS or a subcontractor of ADHS/DBHS.

**B. Post-stabilization requirements for non-FES members.**

- 1. A contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have been prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS.
- 2. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain the member's stabilized condition within one hour of a request to the contractor, ADHS/DBHS, or a subcontractor for prior authorization of further post-stabilization services;
- 3. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain, improve, or resolve the member's stabilized condition if:
  - a. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, does not respond to a request for prior authorization within one hour;
  - b. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS authorized to give the prior authorization cannot be contacted; or
  - c. The representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician cannot reach an agreement concerning the member's care and the contractor's, ADHS/DBHS' or the subcontractor's physician, is not available for consultation. The treating physician may continue with care of the member until ADHS/DBHS', the contractor's, or the subcontractor's physician is reached, or:
    - i. A contractor physician with privileges at the treating hospital assumes responsibility for the member's care;
    - ii. ADHS/DBHS', a contractor's, or a subcontractor's physician assumes responsibility for the member's care through transfer;
    - iii. A representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician reach agreement concerning the member's care; or
    - iv. The member is discharged.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R.

5480, effective December 6, 2005 (Supp. 05-4).

Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

**R9-22-211. Transportation Services**

**A. Emergency ambulance services.**

- 1. A member shall receive medically necessary emergency transportation in a ground or air ambulance:
  - a. To the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
  - b. If no other appropriate means of transportation is available.
- 2. The Administration or a member's contractor shall reimburse a ground or air ambulance transport that originates in response to a 911 call or other emergency response system:
  - a. If the member's medical condition justifies the medical necessity of the type of ambulance transportation received,
  - b. The transport is to the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
  - c. No prior authorization is required for reimbursement of these transports.
- 3. The member's medical condition at the time of transport determines whether the transport is medically necessary.
- 4. A ground or air ambulance provider furnishing transport in response to a 911 call or other emergency response system shall notify the member's contractor within 10 working days from the date of transport. Failure of the provider to provide notification is cause for denial.
- 5. Notification to the Administration of emergency transportation provided to a FFS member is not required, but the provider shall submit documentation with the claim that justifies the service.

**B. The Administration or a contractor covers air ambulance services only if at least one criterion in subsection (B)(1) is met and at least one criterion in subsection (B)(2), or the criterion in subsection (B)(3) is met. The criteria are:**

- 1. The air ambulance transport is initiated at the request of:
  - a. An emergency response unit,

- b. A law enforcement official,
    - c. A clinic or hospital medical staff member, or
    - d. A physician or practitioner, and
  - 2. The point of pickup:
    - a. Is inaccessible by ground ambulance, or
    - b. Is a great distance from the nearest hospital or other provider with appropriate facilities to treat the member's condition and ground ambulance service will not suffice, or
  - 3. The medical condition of the member requires immediate intervention from emergency ambulance personnel or providers with the appropriate facilities to treat the member's condition.
- C.** Coverage of medically necessary nonemergency transportation is limited to the cost of transporting the member to an appropriate provider capable of meeting the member's medical needs.
- 1. As specified in contract, a contractor shall arrange or provide medically necessary nonemergency transportation services for a member who is unable to arrange transportation to a service site or location.
  - 2. For a fee-for-service member, the Administration shall authorize medically necessary nonemergency transportation for a member who is unable to arrange transportation to a service site or location.
- D.** For the purposes of this subsection, an individual means a person who is not in the business of providing transportation services such as a family or household member, friend, or neighbor. The Administration or a contractor shall cover expenses for transportation in traveling to and returning from an approved and prior authorized health care service site provided by an individual if:
- 1. The transportation services are authorized by the Administration or the member's contractor or designee,
  - 2. The individual is an AHCCCS registered provider, and
  - 3. No other means of appropriate transportation is available.
- E.** The Administration or a contractor shall cover expenses for meals, lodging, and transportation for a member traveling to and returning from an approved health care service site outside of the member's service area or county of residence.
- F.** The Administration or a contractor shall cover the expense of meals, lodging, and transportation for:
- 1. A family member accompanying a member if:
    - a. The member is traveling to or returning from an approved health care service site outside of the member's service area or county of residence; and
    - b. The meals, lodging, and transportation services are authorized by the Administration or the member's contractor or designee.
  - 2. An escort who is not a family member as follows:
    - a. If the member is travelling to or returning from an approved and prior authorized health care service site, including an inpatient facility, outside of the member's service area or county of residence;
    - b. If the escort services are authorized by the Administration or the member's contractor or designee; and
    - c. Wage paid to an escort as reimbursement shall not exceed the federal minimum wage.
- G.** A provider shall obtain prior authorization from the Administration for transportation services provided for a member for the following:
- 1. Medically necessary nonemergency transportation services not originated through a 911 call or other emergency response system when the distance traveled exceeds 100 miles (whether one way or round trip); and

- 2. All meals, lodging, and services of an escort accompanying the member under this Section.

- H.** A charitable organization routinely providing transportation service at no cost to an ambulatory or chairbound person shall not charge or seek reimbursement from the Administration or a contractor for the provision of the service to a member but may enter into a subcontract with a contractor for medically necessary transportation services provided to a member.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-211 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

#### **R9-22-212. Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies**

- A.** Durable medical equipment, orthotic and prosthetic devices, and medical supplies, including incontinence briefs as specified in subsection (E), are covered services to the extent permitted in this Section if provided in compliance with requirements of this Chapter; and
- 1. Prescribed by the primary care provider, attending physician, or practitioner; or
  - 2. Prescribed by a specialist upon referral from the primary care provider, attending physician, or practitioner; and
  - 3. Authorized as required by the Administration, contractor, or contractor's designee.
- B.** Covered medical supplies are consumable items that are designed specifically to meet a medical purpose, are disposable, and are essential for the member's health.
- C.** Covered DME is any item, appliance, or piece of equipment that is not a prosthetic or orthotic; and
- 1. Is designed for a medical purpose, and is generally not useful to a person in the absence of an illness or injury, and
  - 2. Can withstand repeated use, and
  - 3. Is generally reusable by others.
- D.** Prosthetics are devices prescribed by a physician or other licensed practitioner to artificially replace missing, deformed or malfunctioning portion of the body. Only those prosthetics that are medically necessary for rehabilitation are covered, except as otherwise provided in R9-22-215.
- E.** The following limitations on coverage apply:
- 1. The DME is furnished on a rental or purchase basis, whichever is less expensive. The total expense of renting the DME does not exceed the cost of the DME if purchased.
  - 2. Reasonable repair or adjustment of purchased DME is covered if necessary to make the DME serviceable and if the cost of repair or adjustment is less than the cost of renting or purchasing another unit.
  - 3. A change in, or addition to, an original order for DME is covered if approved by the prescriber in subsection (A), or prior authorized by the Administration or contractor, and the change or addition is indicated clearly on the order and initialed by the vendor. No change or addition to the original order for DME may be made after a claim for services is submitted to the member's contractor, or

- the Administration, without prior written notification of the change or addition to the Administration or the contractor.
4. Reimbursement for rental fees shall terminate:
    - a. No later than the end of the month in which the prescriber in subsection (A) certifies that the member no longer needs the DME;
    - b. If the member is no longer eligible for AHCCCS services; or
    - c. If the member is no longer enrolled with a contractor, with the exception of transitions of care as specified in R9-22-509.
  5. Except for incontinence briefs for persons over 3 years old and under 21 years old as provided in subsection (E)(6), personal care items including items for personal cleanliness, body hygiene, and grooming are not covered unless needed to treat a medical condition. Personal care items are not covered services if used solely for preventive purposes.
  6. Incontinence briefs, including pull-ups are covered to prevent skin breakdown and enable participation in social, community, therapeutic and educational activities under the following circumstances:
    - a. The member is over 3 years old and under 21 years old;
    - b. The member is incontinent due to a documented disability that causes incontinence of bowel or bladder, or both;
    - c. The PCP or attending physician has issued a prescription ordering the incontinence briefs;
    - d. Incontinence briefs do not exceed 240 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 240 briefs per month for a member diagnosed with chronic diarrhea or spastic bladder;
    - e. The member obtains incontinence briefs from providers in the contractor's network;
    - f. Prior authorization has been obtained as required by the Administration, contractor, or contractor's designee. Contractors may require a new prior authorization to be issued no more frequently than every 12 months. Prior authorization for a renewal of an existing prescription may be provided by the physician through telephone contact with the member rather than an in-person physician visit. Prior authorization will be permitted to ascertain that:
      - i. The member is over age 3 and under age 21;
      - ii. The member has a disability that causes incontinence of bladder or bowel, or both;
      - iii. A physician has prescribed incontinence briefs as medically necessary. A physician prescription supporting medical necessity may be required for specialty briefs or for briefs different from the standard briefs supplied by the contractor; and
      - iv. The prescription is for 240 briefs or fewer per month, unless evidence of medical necessity for over 240 briefs is provided.
  7. First aid supplies are not covered unless they are provided in accordance with a prescription.
  8. The following services are not covered for individuals 21 years of age or older:
    - a. Hearing aids;
    - b. Prescriptive lenses unless they are the sole visual prosthetic device used by the member after a cataract extraction;
    - c. Bone Anchor Hearing Aid (BAHA);
    - d. Cochlear implant;
    - e. Percussive vest;
    - f. Insulin pump;
    - g. Microprocessor-controlled lower limbs or microprocessor-controlled joints for lower limbs; and
    - h. Orthotics, which are defined as devices that are prescribed by a physician or other licensed practitioner of the healing arts to support a weak or deformed portion of the body.
- F. Liability and ownership.**
1. Purchased DME that is provided to a member and no longer needed by the member may be disposed of in accordance with each contractor's policy.
  2. The Administration shall retain title to purchased DME provided to a member who becomes ineligible or no longer requires use of the DME.
  3. If customized DME is purchased by the Administration or contractor for a member, the equipment shall remain with the person during times of transition to a different contractor, or upon loss of eligibility. For purposes of this subsection, customized DME refers to equipment that is altered or built to specifications unique to a member's medical needs and that, most likely, cannot be used or reused to meet the needs of another individual.
  4. A member shall return DME obtained fraudulently to the Administration or the contractor.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-212 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-212 repealed, new Section R9-22-212 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (2), and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

#### **R9-22-213. Early and Periodic Screening, Diagnosis, and Treatment Services (E.P.S.D.T.)**

- A.** The following E.P.S.D.T. services are covered for a member less than 21 years of age:
1. Screening services including:
    - a. Comprehensive health and developmental history;
    - b. Comprehensive unclothed physical examination;
    - c. Appropriate immunizations according to age and health history;
    - d. Laboratory tests; and
    - e. Health education, including anticipatory guidance;
  2. Vision services including:
    - a. Diagnosis and treatment for defects in vision;
    - b. Eye examinations for the provision of prescriptive lenses; and
    - c. Prescriptive lenses;
  3. Hearing services including:
    - a. Diagnosis and treatment for defects in hearing;
    - b. Testing to determine hearing impairment; and
    - c. Hearing aids;
  4. Dental services including:

- a. Emergency dental services as specified in R9-22-207;
- b. Preventive services including screening, diagnosis, and treatment of dental disease; and
- c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;
5. Orthognathic surgery;
6. Nutritional assessment and nutritional therapy as specified in contract to provide complete daily dietary requirements or supplement a member's daily nutritional and caloric intake;
7. Behavioral health services under 9 A.A.C. 22, Article 12;
8. Hospice services as follows:
  - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
  - b. Services available to a member receiving hospice care are limited to those allowable under 42 CFR 418.202, October 1, 2006, incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments.
  - c. Hospice services do not include:
    - i. Medical services provided that are not related to the terminal illness; or
    - ii. Home-delivered meals; and
  - d. Hospice services that are provided and covered through Medicare are not covered by AHCCCS;
9. Incontinence briefs as specified under R9-22-212; and
10. Other necessary health care, diagnostic services, treatment, and measures required by 42 U.S.C. 1396d(r)(5).
- B.** Providers of E.P.S.D.T. services shall meet the following standards:
  1. Ensure that services are provided by or under the direction of the member's primary care provider, attending physician, practitioner, or dentist.
  2. Perform tests and examinations under 42 CFR 441 Subpart B, October 1, 2006, which is incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments.
  3. Refer a member as necessary for dental diagnosis and treatment and necessary specialty care.
  4. Refer a member as necessary for behavioral health evaluation and treatment services.
- C.** Contractors shall meet other E.P.S.D.T. requirements as specified in contract.
- D.** A primary care provider, attending physician, or practitioner shall refer a member with special health care needs under R9-7-301 to CRS.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-213 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-213 repealed, new Section R9-22-213 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3).

#### R9-22-214. Repealed

##### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-214 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-214 repealed, new Section R9-22-214 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (4) and added subsection (C), paragraph (2) effective October 1, 1986 (Supp. 86-5). Correction to subsection (C), paragraph (2) (Supp. 87-4). Section repealed effective September 22, 1997 (Supp. 97-3).

#### R9-22-215. Other Medical Professional Services

- A.** The following medical professional services are covered services if a member receives these services in an inpatient, outpatient, or office:
  1. Dialysis;
  2. The following family planning services if provided to delay or prevent pregnancy:
    - a. Medications,
    - b. Supplies,
    - c. Devices, and
    - d. Surgical procedures;
  3. Family planning services are limited to:
    - a. Contraceptive counseling, medications, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service;
    - b. Sterilization; and
    - c. Natural family planning education or referral;
  4. Midwifery services provided by a certified nurse practitioner in midwifery;
  5. Midwifery services for low-risk pregnancies and home deliveries provided by a licensed midwife;
  6. Respiratory therapy;
  7. Ambulatory and outpatient surgery facilities services;
  8. Home health services under A.R.S. § 36-2907(D);
  9. Private or special duty nursing services;
  10. Rehabilitation services including physical therapy, occupational therapy, speech therapy, and audiology within limitations in subsection (C);
  11. Total parenteral nutrition services, which are the provision of total caloric needs by intravenous route for individuals with severe pathology of the alimentary tract;
  12. Inpatient chemotherapy; and
  13. Outpatient chemotherapy.
- B.** Prior authorization from the Administration for a member is required for services listed in subsections (A)(3)(b), and (A)(4) through (11); except for:
  1. Voluntary sterilization;
  2. Dialysis shunt placement;
  3. Arteriovenous graft placement for dialysis;
  4. Angioplasties or thrombectomies of dialysis shunts;
  5. Angioplasties or thrombectomies of arteriovenous grafts for dialysis;
  6. Eye surgery for the treatment of diabetic retinopathy;
  7. Eye surgery for the treatment of glaucoma;
  8. Eye surgery for the treatment of macular degeneration;
  9. Home health visits following an acute hospitalization (limited up to five visits);

10. Hysteroscopies (up to two, one before and one after) when associated with a family planning diagnosis code and done within 90 days of hysteroscopic sterilization;
  11. Physical therapy subject to the limitation in subsection (C);
  12. Facility services related to wound debridement,
  13. Apnea management and training for premature babies up to the age of 1; and
  14. Other services identified by the Administration through the Provider Participation Agreement.
- C. The following are not covered services:
1. Occupational and speech therapies provided on an outpatient basis for a member age 21 or older;
  2. Physical therapy provided only as a maintenance regimen;
  3. Abortion counseling;
  4. Services or items furnished solely for cosmetic purposes;
  5. Services provided by a podiatrist; or
  6. More than 15 outpatient physical therapy visits per benefit year with the exception of the required Medicare coinsurance and deductible payment as described in 9 A.A.C. 29, Article 3.
- j. Thermometer;
  - k. Ice bags;
  - l. Rubber sheeting;
  - m. Passive restraints;
  - n. Glycerin swabs;
  - o. Facial tissue;
  - p. Enemas;
  - q. Heating pad; and
  - r. Incontinence briefs.
3. Dietary services including preparation and administration of special diets, and adaptive tools for eating;
  4. Any service that is included in a NF's room and board charge or a service that is required of the NF to meet a federal or state licensure standard or county certification requirement;
  5. Physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;
  6. Physical therapy prescribed only as a maintenance regimen; and
  7. Assistive devices and non-customized durable medical equipment.
- C. A provider shall obtain prior authorization from the Administration for a NF admission for a FFS member.

#### Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-215 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

#### R9-22-216. NF, Alternative HCBS Setting, or HCBS

- A. Services provided in a NF, including room and board, an alternative HCBS setting as defined in R9-28-101, or a HCBS as defined in A.R.S. § 36-2939 are covered for a maximum of 90 days per contract year if the member's medical condition would otherwise require hospitalization.
- B. Except as otherwise provided in 9 A.A.C. 28, the following services are not itemized for separate billing if provided in a NF, alternative HCBS setting, or HCBS:
1. Nursing services, including:
    - a. Administering medication;
    - b. Tube feedings;
    - c. Personal care services, including but not limited to assistance with bathing and grooming;
    - d. Routine testing of vital signs; and
    - e. Maintenance of a catheter;
  2. Basic patient care equipment and sickroom supplies, including:
    - a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
    - b. Bathing and grooming supplies;
    - c. Identification device;
    - d. Skin lotion;
    - e. Medication cup;
    - f. Alcohol wipes, cotton balls, and cotton rolls;
    - g. Rubber gloves (non-sterile);
    - h. Laxatives;
    - i. Bed and accessories;

#### Historical Note

Adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Subsection (C) amended to correct a typographical error (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at 13 A.A.R. 4122, effective November 6, 2007 (Supp. 07-4).

*Editor's Note: The following Section was adopted and amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General has not certified this rule. This Section was subsequently repealed and a new Section adopted under the regular rulemaking process.*

#### R9-22-217. Services Included in the Federal Emergency Services Program

- A. Definition. For the purposes of this Section, an emergency medical or behavioral health condition for a FES member means a medical condition or a behavioral health condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:
1. Placing the member's health in serious jeopardy,
  2. Serious impairment to bodily functions,
  3. Serious dysfunction of any bodily organ or part, or
  4. Serious physical harm to another person.
- B. Services. "Emergency services for a FES member" mean those medical or behavioral health services provided for the treatment of an emergency condition. Emergency services include outpatient dialysis services for a FES member with End Stage Renal Disease (ESRD) where a treating physician has certified

for the month in which services are received that in the physician's opinion the absence of receiving dialysis at least three times per week would reasonably be expected to result in:

1. Placing the member's health in serious jeopardy, or
  2. Serious impairment of bodily function, or
  3. Serious dysfunction of a bodily organ or part.
- C.** Covered services. Services are considered emergency services if all of the criteria specified in subsection (A) are satisfied at the time the services are rendered. The Administration shall determine whether an emergency condition exists on a case-by-case basis.
- D.** Prior authorization. A provider is not required to obtain prior authorization for emergency services for FES members. Prior authorization for outpatient dialysis services is met when the treating physician has completed and signed a monthly certification as described in subsection (B).
- E.** Services rendered through the Federal Emergency Services Program are subject to all exclusions and limitation on services in this Article including but not limited to the limitations on inpatient hospital services in R9-22-204.

#### Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1868, effective October 1, 2011 (Supp. 11-3).

#### R9-22-218. Repealed

#### Historical Note

Section R9-22-218 renumbered from R9-22-206 effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3).

### ARTICLE 3. REPEALED

#### R9-22-301. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-301 renumbered together with former Section R9-22-102 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section R9-22-301 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (8), subsection (E), paragraph (3), and subsection (J), paragraph (5) effective October 1, 1986 (Supp. 86-5). Amended subsections (C) and (E) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B) and (C) effective October 1, 1987; amended subsection (D) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September

29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### R9-22-302. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-302 repealed, new Section R9-22-302 adopted effective November 20, 1984 (Supp. 84-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### R9-22-303. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-303 repealed, new Section R9-22-303 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### R9-22-304. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-304 repealed, new Section R9-22-304 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### R9-22-305. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-305 repealed, new Section R9-22-305 adopted effective November 20, 1984 (Supp. 84-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### R9-22-306. Repealed

#### Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-306 repealed, new Section R9-22-306 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraphs (1) and (6) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) and added a new subsection (N) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective October 1, 1987; amended subsection (N) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the pro-

visions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-307. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsections (A) and (C), added subsection (G) and (H) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-307 repealed, new Section R9-22-307 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) as an emergency effective December 4, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-6). Permanent amendment to subsection (A) effective February 5, 1986 (Supp. 86-1). Amended subsections (E) and (F) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-308. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (C) effective March 2, 1984 (Supp. 84-2). Former Section R9-22-308 repealed, new Section R9-22-308 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-309. Repealed**

**Historical Note**

Adopted effective August 30, 1984 (Supp. 82-4). Amended (D)(1)(d) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-309 repealed, new Section R9-22-309 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A), (B) and (C) effective October 1, 1987 (Supp. 87-4).

Amended effective May 30, 1989 (Supp. 89-2). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-310. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended (B)(7) and added subsections (C) and (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-310 repealed, new Section R9-22-310 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (7) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-311. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-311 repealed, new Section R9-22-311 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-312. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsections (A) and (B), added subsection (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-312 repealed, new Section R9-22-312 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-313. Repealed**

**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsections (C) and (D) as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended subsections (D) and (E) as an emergency effective August 16, 1984, pursuant

to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-313 repealed, new Section R9-22-313 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E) and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B) and (C) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-314. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsection (A) and added subsection (F) as an emergency effective February 28, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended subsection (A) and added subsection (F) as a permanent rule effective May 16, 1983; text of the amended rule identical to the emergency (Supp. 83-3). Former Section R9-22-314 repealed, new Section R9-22-314 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-315. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-315 repealed, new Section R9-22-315 adopted effective November 20, 1984 (Supp. 84-6). Repealed effective October 1, 1985 (Supp. 85-5). New Section R9-22-315 adopted effective February 5, 1986 (Supp. 86-1). Amended effective February 26, 1988 (Supp. 88-1). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-316. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as an emergency effective February 9, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of permanent rule identical to the emergency (Supp. 83-3). Amended effective October 1, 1983 (Supp. 83-5). Correction subsection (A), paragraph (1) amended

effective October 1, 1983, (Supp. 83-6). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-316 repealed, new Section R9-22-316 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective October 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-317. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-317 repealed, new Section R9-22-317 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-318. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-318 repealed, new Section R9-22-318 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) and added subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective October 1, 1987; amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective December 13, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

#### **R9-22-319. Repealed**

##### **Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-319 repealed, new Section R9-22-319 adopted effective November 20, 1984 (Supp. 84-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by



final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-320. Repealed****Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-320 repealed, new Section R9-22-320 adopted effective November 20, 1984 (Supp. 84-6). Amended effective April 13, 1990 (Supp. 90-2). Repealed effective December 13, 1993 (Supp. 93-4).

**R9-22-321. Repealed****Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-321 repealed, new Section R9-22-321 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (E) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-322. Repealed****Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective May 27, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R9-22-322 repealed, new Section R9-22-322 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-322 repealed, new Section R9-22-322 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-323. Repealed****Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (B) and (D) effective January

1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B), (D) and (E) effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-324. Repealed****Historical Note**

Adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-4). Former Section R9-22-324 adopted as an emergency renumbered as Section R9-22-327. New Section R9-22-324 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-324 repealed, former Section R9-22-323 renumbered as Section R9-22-324 and adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Former Section R9-22-324 repealed, new Section R9-22-324 adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-324 repealed, new Section R9-22-324 adopted effective November 20, 1984 (Supp. 84-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-325. Repealed****Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-325 repealed, new Section R9-22-325 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-326. Repealed****Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-326 repealed, new Section R9-22-326 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-327. Repealed****Historical Note**

Former Section R9-22-324 adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days renumbered as Section R9-22-327 and adopted as a permanent rule effective October 1, 1983 (Supp. 83-5). Former Section R9-22-327 repealed, new Section R9-22-327 adopted effective November 20,

1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (A), (D), (E), (G), (H), and (I) effective October 1, 1986 (Supp. 86-5). Amended subsection (D) and added a new subsection (J) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A) and (E) effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-328. Repealed****Historical Note**

Adopted as an emergency effective October 6, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Emergency Expired. New Section R9-22-328 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (A) and (E) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (D) effective October 1, 1987 (Supp. 87-4). Amended subsection (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-329. Repealed****Historical Note**

Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-329 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-330. Repealed****Historical Note**

Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-330 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-331. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31,

1986 (Supp. 86-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-332. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-333. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-334. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-335. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-336. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective September 16, 1987 (Supp. 87-3). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-337. Repealed****Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Correction to subsection (B), paragraph (1) (Supp. 87-3). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed

by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-338. Repealed**

**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Heading changed effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-339. Repealed**

**Historical Note**

Adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective October 1, 1987 (Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-340. Repealed**

**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-341. Repealed**

**Historical Note**

Adopted effective March 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-342. Repealed**

**Historical Note**

Adopted effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-343. Repealed**

**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**R9-22-344. Repealed**

**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

**ARTICLE 4. REPEALED**

**R9-22-401. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-401 adopted as an emergency now adopted as a permanent rule effective August 30,

1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 31, 1997 (Supp. 97-1). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-402. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-402 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-403. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-403 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-404. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-404 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-405. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-405 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of the amended rule similar to the emergency (Supp. 83-3). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-406. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-406 adopted as an emergency

now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-406 repealed, new Section R9-22-406 adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of the Section identical to the emergency (Supp. 83-3). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

## ARTICLE 5. GENERAL PROVISIONS AND STANDARDS

### R9-22-501. General Provisions and Standards – Related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Quality management” means a process used by professional health personnel through a formal program involving multiple organizational components and committees to:

Assess the degree to which services provided conform to desired medical standards and practices; and

Quality improvement or maintenance of care and services.

“Quality Improvement” means a process designed to achieve, through ongoing measurements and intervention, significant improvement that is sustained over time, in the areas of clinical care and non-clinical care and is expected to have a favorable effect on health outcomes and member satisfaction. Quality Improvement includes focusing organizational efforts on improving performance and utilizing data to develop intervention strategies to improve performance and outcomes.

“Utilization management/review” means a methodology used by professional health personnel to assess the medical indications, appropriateness, and efficiency of care provided. Utilization management applies to a contractor’s process to evaluate and approve or deny the medical necessity, appropriateness, efficacy and efficiency of health care services, procedures, or settings. Utilization review includes processes for prior authorization, concurrent review, retrospective review, and case management.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-501 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-501 repealed, former Section R9-22-502 renumbered and adopted without change as Section R9-22-501 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-501 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

### R9-22-502. Pre-existing Conditions

A. Except as otherwise provided in Article 2 of this Chapter, a contractor shall be responsible for providing the full scope of covered services to each member from the effective date of eligibility until the termination of enrollment or transfer of the

member to another contractor. A contractor shall not impose a pre-existing condition exclusion with respect to covered services.

B. A contractor or subcontractor shall not adopt or use any procedure to identify a person who has an existing or anticipated medical or psychiatric condition in order to discourage or exclude the person from enrolling in the contractor’s health plan or encourage the person to enroll in another health plan.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-502 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-502 renumbered without change as Section R9-22-501, former Section R9-22-503 renumbered and amended as Section R9-22-502 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-502 repealed, new Section R9-22-502 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

### R9-22-503. Provider Requirements Regarding Records

The provider shall maintain records that meet uniform accounting standards and generally accepted practices for maintenance of medical records, including detailed specification of all patient services delivered, the rationale for delivery, and the service date. A provider shall maintain and upon request, make available to a contractor and to the Administration, financial and medical records relating to payment for not less than five years from the date of final payment, or for records relating to costs and expenses to which the Administration has taken exception, five years after the date of final disposition or resolution of the exception. Providers shall provide one copy of a medical record at no cost if requested by the member.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-503 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-503 renumbered and amended as Section R9-22-502, new Section R9-22-503 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective May 30, 1986 (Supp. 86-3). Amended subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (F) and (G) effective December 22, 1987 (Supp. 87-4). Amended subsection (I) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

### R9-22-504. Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions

A. A contractor or the contractor’s marketing representative shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure AHCCCS enrollment

with the contractor. Any marketing solicitation offering a benefit, good, or service in excess of the covered services in Article 2 is deemed an inducement.

- B.** A marketing representative shall not misrepresent itself, the contracting health plan represented, or the AHCCCS program, through false advertising, false statements, or in any other manner to induce a member of another contractor to enroll in the represented health plan. Violations of this subsection include, but are not limited to, false or misleading claims, inferences, or representations such as:
1. A member will lose benefits under the AHCCCS program or lose any other health or welfare benefits to which a member is legally entitled, if the member does not enroll in the represented contracting health plan;
  2. Marketing representatives are employees of the state or representatives of the Administration, a county, or any health plan other than the health plan by which they are employed, or by which they are reimbursed; and
  3. The represented health plan is recommended or endorsed as superior to its competition by any state or county agency, or any organization, unless the organization has certified its endorsement in writing to the health plan and the Administration.
- C.** A marketing representative shall not engage in any marketing or pre-enrollment practice that discriminates against a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.
- D.** The Administration shall hold a contractor responsible for a violation of this Section resulting from the performance of any marketing representative, subcontractor, agent, program, or process under the contractor's employ or direction and shall impose contract sanctions on the contractor as specified in contract.
- E.** A contractor shall produce and distribute informational materials that are approved by the Administration to each enrolled member or designated representative after the contractor receives notification of enrollment from the Administration. The contractor shall ensure that the informational materials include, at a minimum:
1. A description of all covered services as specified in contract;
  2. An explanation of service limitations and exclusions;
  3. An explanation of the procedure for obtaining services;
  4. An explanation of the procedure for obtaining emergency services;
  5. An explanation of the procedure for filing a grievance and appeal; and
  6. An explanation of when plan changes may occur as specified in contract.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-504 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-504 repealed, former Section R9-22-505 renumbered and adopted without change as Section R9-22-504 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-504 repealed, former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

#### R9-22-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services

A provider shall not provide hospital or medical services to a member unless the provider is licensed by the Arizona Department of Health Services and meets the requirements in 42 CFR 441 and 482, as of October 1, 2007, and 42 CFR 456 Subpart C, as of October 1, 2007, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments. An Indian Health Service (IHS) hospital and a Veterans Administration hospital shall not provide services to a member unless accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-505 adopted as an emergency expired, former Section R9-22-506 adopted as an emergency now adopted, amended and renumbered as Section R9-22-505 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-505 renumbered without change as Section R9-22-504, new Section R9-22-505 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-505 renumbered and amended as Section R9-22-509, former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5). Editorial correction, spelling of "paraphernalia" in subsection (A) (Supp. 87-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). New Section made by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

#### R9-22-506. Repealed

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-506 adopted as an emergency adopted, amended and renumbered as Section R9-22-505, former Section R9-22-507 adopted as an emergency now adopted, amended and renumbered as Section R9-22-506 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (D) effective December 22, 1987 (Supp. 87-4). Repealed effective April 13, 1990 (Supp. 90-2). New Section adopted effective December 13, 1993 (Supp. 93-4). Repealed effective December 8, 1997 (Supp. 97-4).

#### R9-22-507. Repealed

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-507 adopted as an emergency adopted, amended and renumbered as Section R9-22-506, former Section R9-22-508 adopted as an emergency now adopted, amended and renumbered as Section R9-22-507 as a permanent rule effective August 30, 1982 (Supp. 82-3).

- 4). Former Section R9-22-507 repealed, new Section R9-22-507 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

#### **R9-22-508. Repealed**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-508 adopted as an emergency adopted, amended and renumbered as Section R9-22-507, former Section R9-22-509 adopted as an emergency now adopted, amended and renumbered as Section R9-22-508 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

#### **R9-22-509. Transition and Coordination of Member Care**

- A.** A contractor shall assist in the transition of members to and from other AHCCCS contractors.
1. Both the receiving and relinquishing contractor shall:
    - a. Coordinate with the other contractor to facilitate and schedule appointments for medically necessary services for the transitioned member within the Administration's timelines specified in the contract. If requested by the Administration, a contractor shall submit the policies and procedures regarding transition of members to the Administration for review and approval;
    - b. Assist in the referral of transitioned members to other community health agencies or county medical assistance programs for medically necessary services not covered by the Administration, as appropriate; and
    - c. Develop policies and procedures to be followed when transitioning members who have significant medical conditions; are receiving ongoing services; or have, at the time of the transition, received prior authorization or approval for undelivered, specific services.
  2. The relinquishing contractor shall notify the receiving contractor of relevant information about the member's medical condition and current treatment regimens within the timelines defined in contract;
  3. The relinquishing contractor shall forward medical records and other relevant materials to the receiving contractor. The relinquishing contractor shall bear the cost of reproducing and forwarding medical records and other relevant materials;
  4. Within the timelines specified in contract, the receiving contractor shall ensure that the member selects or is assigned to a primary care provider, and provide the member with:
    - a. Information regarding the contractor's providers,
    - b. Emergency numbers, and
    - c. Instructions about how to obtain services.
- B.** A contractor shall not use a county or noncontracting provider health resource alternative to diminish the contractor's contractual responsibility or accountability for providing the full scope of covered services. The Administration may impose sanctions as described in contract if a contractor makes referrals to other agencies or programs to reduce expenses incurred by the contractor on behalf of its members.

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-509 adopted as an emergency adopted, amended and renumbered as Section R9-22-508, former Section R9-22-510 adopted as an emergency now adopted and renumbered as Section R9-22-509 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-509 repealed, former Section R9-22-505 renumbered and amended as Section R9-22-509 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

#### **R9-22-510. Repealed**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-510 adopted as an emergency adopted and renumbered as Section R9-22-509, former Section R9-22-511 adopted as an emergency now adopted, amended and renumbered as Section R9-22-510 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-510 repealed, new Section R9-22-510 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

#### **R9-22-511. Repealed**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-511 adopted as an emergency adopted, amended and renumbered as Section R9-22-510, former Section R9-22-512 adopted as an emergency now adopted, amended and renumbered as Section R9-22-511 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-511 repealed, new Section R9-22-511 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

#### **R9-22-512. Release of Safeguarded Information**

- A.** The Administration, contractors, providers, and noncontracting providers shall limit the release of safeguarded information to persons or agencies for the following purposes in accordance with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments:
1. Official purposes directly related to the administration of the AHCCCS program including:
    - a. Establishing eligibility and post-eligibility treatment of income, as applicable;
    - b. Determining the amount of medical assistance;
    - c. Providing services for members;
    - d. Performing evaluations and analysis of AHCCCS operations;
    - e. Filing liens on property as applicable;
    - f. Filing claims on estates, as applicable; and

- g. Filing, negotiating, and settling medical liens and claims.
- 2. Law enforcement. The Administration may release safeguarded information without the applicant's or member's written or verbal consent, for the purpose of conducting or assisting an investigation, prosecution, or criminal or civil proceeding related to the administration of the AHC-CCS program.
- 3. The Administration may release safeguarded member information to a review committee in accordance with the provisions of A.R.S. § 36-2917, without the consent of the applicant or member.
- B.** Except as provided in subsection (A), the Administration, contractors, providers, and noncontracting providers shall disclose safeguarded information only to:
  - 1. An applicant;
  - 2. A member;
  - 3. An unemancipated minor, with written permission of a parent, custodial relative, or designated representative, if:
    - a. An Administration employee, authorized representative, or responsible caseworker is present during the examination of the safeguarded information; or
    - b. After written notification to the provider, and at a reasonable time and place.
  - 4. Persons authorized by the applicant or member; or
  - 5. A court order or subpoena compliant with 45 CFR 164.512(e), October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C.** The Administration, contractors, providers, and noncontracting providers shall safeguard identifiable information, protected health information as specified in 45 CFR 160, and information obtained in the course of application for or re-determination of eligibility concerning an applicant or member, that includes, but is not limited to the following:
  - 1. Name and address;
  - 2. Social Security number;
  - 3. Social and economic conditions or circumstances;
  - 4. Agency evaluation of personal information;
  - 5. Medical data and information concerning medical services received, including diagnosis and history of disease or disability;
  - 6. State Data Exchange (SDX) tapes, and other types of information received from outside sources for the purpose of verifying income eligibility and amount of medical assistance payments; and
  - 7. Any information received in connection with the identification of legally liable third-party resources.
- D.** The restriction upon disclosure of information in this Section does not apply to:
  - 1. De-identified information as described by 45 CFR 164.514, October 1, 2004, incorporated by reference in subsection (A); or
  - 2. A disclosure, in response to a request for information, that complies with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference in subsection (A).
- E.** A provider shall furnish records requested by the Administration or a contractor to the Administration or the contractor at no charge.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-

3). Former Section R9-22-512 adopted as an emergency adopted, amended and renumbered as Section R9-22-511, former Section R9-22-513 adopted as an emergency now adopted and renumbered as Section R9-22-512 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-512 repealed, new Section R9-22-512 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

**R9-22-513. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-513 adopted as an emergency adopted and renumbered as Section R9-22-512, former Section R9-22-514 adopted as an emergency now adopted, amended and renumbered as Section R9-22-513 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-513 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-513 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

**R9-22-514. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-514 adopted as an emergency adopted, amended and renumbered as Section R9-22-513, former Section R9-22-515 adopted as an emergency now adopted, amended and renumbered as Section R9-22-514 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-514 repealed, former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

**R9-22-515. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-515 adopted as an emergency adopted, amended and renumbered as Section R9-22-514, former Section R9-22-517 adopted as an emergency now adopted, amended and renumbered as Section R9-22-515 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-515 repealed, former Section R9-22-522 renumbered and amended as Section R9-22-515 effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

**R9-22-516. Renumbered****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-516 adopted as an emergency expired, former Section R9-22-518 adopted as an emer-

agency now adopted, amended and renumbered as Section R9-22-516 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-516 renumbered as Section R9-22-513 effective October 1, 1985 (Supp. 85-5).

#### **R9-22-517. Renumbered**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-517 adopted as an emergency adopted, amended and renumbered as Section R9-22-515, former Section R9-22-519 adopted as an emergency now adopted and renumbered and amended as Section R9-22-517 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5).

#### **R9-22-518. Information to Enrolled Members**

- A. Each contractor shall produce and distribute printed informational materials to each member or family unit no later than 10 days of receipt of notification of enrollment from the Administration. The contractor shall ensure that the informational materials meet the requirements specified in the contractor's current contract.
- B. A contractor shall provide a member with the name, address, and telephone number of the member's primary care provider no later than 10 days from the date of enrollment. The contractor shall include information on how the member may change primary care providers.

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-518 adopted as an emergency adopted, amended and renumbered as Section R9-22-516, former Section R9-22-520 adopted as an emergency now adopted, amended and renumbered as Section R9-22-518 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-518 repealed, new Section R9-22-518 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

#### **R9-22-519. Repealed**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-519 adopted as an emergency adopted, amended and renumbered as Section R9-22-517, former Section R9-22-521 adopted as an emergency now adopted, amended and renumbered as Section R9-22-519 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-519 repealed, new Section R9-22-519 adopted effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

#### **R9-22-520. Expired**

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-520 adopted as an emergency adopted, amended and renumbered as Section R9-22-518, former Section R9-22-522 adopted as an emergency now

adopted, amended and renumbered as Section R9-22-520 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-520 repealed, new Section R9-22-520 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4).

Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

#### **R9-22-521. Program Compliance Audits**

- A. The Administration shall conduct an onsite program compliance audit of a contractor at least once every three years during the term of the Administration's contract with the contractor. The Administration may conduct, without prior notice, inspections of contractor facilities or perform other elements of a program compliance audit.
- B. An audit team may perform any or all of the following procedures:
  1. Conduct private interviews and group conferences with members, physicians, other health professionals, and members of the contractor's administrative staff including, but not limited to, the contractor's principal management persons;
  2. Examine records, books, reports, and papers of the contractor and any management company, and all providers or subcontractors providing health care and other services. The examination may include, but need not be limited to: minutes of medical staff meetings, peer review and quality of care review records, duty rosters of medical personnel, appointment records, written procedures for the internal operation of the health plan, contracts and correspondence with members and with providers of health care services and other services to the plan, and additional documentation deemed necessary by the Administration to review the quality of medical care.

##### **Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-521 adopted as an emergency adopted, amended and renumbered as Section R9-22-519, former Section R9-22-523 adopted as an emergency now adopted, amended and renumbered as Section R9-22-521 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-521 repealed, new Section R9-22-521 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

*Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General has not certified this rule. This Section was subsequently amended through the regular rulemaking process.*

#### **R9-22-522. Quality Management/Utilization Management (QM/UM) Requirements**

- A. A contractor shall comply with Quality Management/Utilization Management (QM/UM) requirements specified in this Section and in contract. The contractor shall ensure compli-



ance with QM/UM requirements that are accomplished through delegation or subcontract with another party.

**B.** In addition to any requirements specified in contract, a contractor shall:

1. Submit to the Administration a written QM/UM plan that includes a description of the systems, methodologies, protocols, and procedures to be used in:
  - a. Monitoring and evaluating the types of services provided,
  - b. Identifying the numbers and costs of services provided,
  - c. Assessing and improving the quality and appropriateness of care and services,
  - d. Evaluating the outcome of care provided to members, and
  - e. Determining the actions necessary to improve service delivery;
2. Submit the QM/UM plan to the Administration on an annual basis within timelines specified in contract. If the QM/UM plan is changed during the year, the contractor shall submit the revised plan to the Administration before implementation;
3. Receive approval from the Administration before implementing the initial or revised QM/UM plan;
4. Ensure that a QM/UM committee operates under the control of the contractor's medical director and includes representation from medical and executive management personnel. The committee shall:
  - a. Oversee the development, revision, and implementation of the QM/UM plan; and
  - b. Ensure that there are qualified QM/UM personnel and sufficient resources to implement the contractor's QM/UM activities; and
5. Ensure that the QM/UM activities include at least:
  - a. Prior authorization for non-emergency or scheduled hospital admissions;
  - b. Concurrent review of inpatient hospitalization;
  - c. Retrospective review of hospital claims;
  - d. Program and provider audits designed to detect over- or under-utilization, service delivery effectiveness, and outcome;
  - e. Medical records audits;
  - f. Surveys to determine satisfaction of members;
  - g. Assessment of the adequacy and qualifications of the contractor's provider network;
  - h. Review and analysis of QM/UM data;
  - i. Measurement of performance using objective quality indicators;
  - j. Ensuring individual and systemic quality of care;
  - k. Integrating quality throughout the organization;
  - l. Process improvement;
  - m. Credentialing a provider network;
  - n. Resolving quality of care grievances; and
  - o. Quality improvement activities focused on improving the quality of care and the efficient, cost-effective delivery and utilization of services.

**C.** A member's primary care provider shall maintain medical records that:

1. Conform to professional medical standards and practices for documentation of medical diagnostic and treatment data;
2. Facilitate follow-up treatment; and
3. Permit professional medical review and medical audit processes.

**D.** Within 30 days following termination of the contract between a subcontractor and a contractor, the subcontractor or the subcontractor's designee shall forward to the primary care provider medical records or copies of medical records of all members assigned to the subcontractor or for whom the subcontractor has provided services.

**E.** The Administration shall monitor each contractor and the contractor's providers to ensure compliance with Administration QM/UM requirements and adherence to the contractor's QM/UM plan.

1. A contractor and the contractor's providers shall cooperate with the Administration in the performance of the Administration's QM/UM monitoring activities; and
2. A contractor and the contractor's providers shall develop and implement mechanisms for correcting deficiencies identified through the Administration's QM/UM monitoring.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-522 adopted as an emergency adopted, amended and renumbered as Section R9-22-520, former Section R9-22-524 adopted as an emergency now adopted and renumbered as Section R9-22-522 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-522 renumbered and amended as Section R9-22-515, new Section R9-22-522 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

**R9-22-523. Expired**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-523 adopted as an emergency adopted, amended and renumbered as Section R9-22-521, former Section R9-22-525 adopted as an emergency now adopted, amended and renumbered as Section R9-22-523 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

**R9-22-524. Repealed**

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-524 adopted as an emergency adopted and renumbered as Section R9-22-522, former Section R9-22-526 adopted as an emergency now adopted, amended and renumbered as Section R9-22-524 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-524 repealed, new Section R9-22-524 adopted effective October 1, 1985 (Supp. 85-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

**R9-22-525. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-525 adopted as an emergency adopted, amended and renumbered as Section R9-22-523, former Section R9-22-527 adopted as an emergency now adopted, amended and renumbered as Section R9-22-525 as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1985 (Supp. 85-5).

**R9-22-526. Renumbered****Historical Note**

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of the permanent rule identical to the emergency (Supp. 83-3). Former Section R9-22-526 repealed, new Section R9-22-526 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-1).

**R9-22-527. Renumbered****Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5).

**R9-22-528. Renumbered****Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5).

**R9-22-529. Renumbered****Historical Note**

Adopted as Section R9-22-529 effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5).

**ARTICLE 6. RFP AND CONTRACT PROCESS****R9-22-601. General Provisions**

- A.** The Director has full operational authority to adopt rules for the RFP process and the award of contracts under A.R.S. § 36-2906.
- B.** This Article applies to the award of contracts under A.R.S. §§ 36-2904 and 36-2906 to provide services under A.R.S. § 36-2907 and the expenditure of public monies by the Administration pertaining to covered services when the procurement so states. The Administration shall establish conflict-of-interest safeguards for officers and employees of this state with responsibilities relating to contracts that comply with 42 U.S.C. 1396u-2(d)(3).
- C.** The Administration is exempt from the procurement code under A.R.S. § 41-2501.
- D.** The Administration and contractors shall retain all contract records for five years under A.R.S. § 36-2903 and dispose of the records under A.R.S. § 41-2550.
- E.** The following terms are defined as related to this Article: "Procurement file" means the official records file of the Director whether located in the Office of the Director or at the public procurement unit. The procurement file shall include in electronic or paper form a list of notified vendors, final solicitation, solicitation amendments, bids/offers, final proposal revisions, clarifications, and final evaluation report.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-601 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

**R9-22-602. RFP**

- A.** RFP content. The Administration shall include the following items in any RFP under this Article:
  1. Instructions and information to an offeror concerning the proposal submission including:
    - a. The deadline for submitting a proposal,
    - b. The address of the office at which a proposal is to be received,
    - c. The period during which the RFP remains open, and
    - d. Any special instructions and information;
  2. The scope of covered services under Article 2 of this Chapter and A.R.S. §§ 36-2906 and 36-2907, covered populations, geographic coverage, service and performance requirements, and a delivery or performance schedule;
  3. The contract terms and conditions, including bonding or other security requirements, if applicable;
  4. The factors used to evaluate a proposal;
  5. The location and method of obtaining documents that are incorporated by reference in the RFP;
  6. A requirement that the offeror acknowledge receipt of all RFP amendments issued by the Administration;
  7. The type of contract to be used and a copy of a proposed contract form or provisions;
  8. The length of the contract service;
  9. A requirement for cost or pricing data;
  10. The minimum RFP requirements; and
  11. A provision requiring an offeror to certify that a submitted proposal does not involve collusion or other anti-competitive practices.
- B.** Proposal process.
  1. After the deadline for submitting proposals, the Administration may open a proposal publicly and announce and record the name of the offeror. The Administration shall keep all other information contained in a proposal confidential. The Administration shall open a proposal for public inspection after contract award unless the Administration determines that disclosure is not in the best interest of the state.
  2. The Administration shall evaluate a proposal based on the GSA and the evaluation factors listed in the RFP.
  3. The Administration may initiate discussions with a responsive and responsible offeror to clarify and assure full understanding of an offeror's proposal. The Administration shall provide an offeror fair treatment with respect to discussion and revision of a proposal. The Administration shall not disclose information derived from a proposal submitted by a competing offeror.
  4. The Administration shall allow for the adjustment of covered services by expansion, deletion, segregation, or combination in order to secure the most financially advantageous proposals for the state.

5. The Administration may conduct an investigation of a person or organization who has ownership or management interests in corporate offerors or affiliated corporate organizations of an offeror.
6. The Administration may issue a written request for best and final offers. The Administration shall state in the request the date, time, and place for the submission of best and final offers.
7. The Administration shall not request best and final offers more than once unless the Administration determines that it is advantageous to the state to request additional best and final offers. The Administration shall state in the written request for best and final offers that if the offeror does not submit a notice of withdrawal or a best and final offer, the Administration shall take the most recent offer as the offeror's best and final offer.

**C. Proposal rejection.**

1. The Administration may reject an offeror's proposal if the offeror fails to supply the information requested by the Administration.
2. The offeror shall not disclose information pertaining to its proposal to any other offeror prior to contract award. The offeror may disclose proposal information to a person other than another offeror if the recipient agrees to keep the information confidential until contract award. Disclosure in violation of this subsection may be grounds for rejecting a proposal.
3. The Administration shall provide written notification to an offeror whose proposal is rejected. The rejection notice shall be part of the contract file and a public record.
4. If the Administration determines that it is in the best interest of the state, the Administration may reject any and all proposals, in whole or in part, under the RFP. The reasons for rejection shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a proposal is rejected in whole or in part.

- D. Proposal cancellation.** If the Administration determines that it is in the best interest of the state, the Administration may cancel a RFP. The reasons for cancellation shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a RFP is cancelled.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-602 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-603. Contract Award**

The Administration shall award a contract to the responsible and responsive offeror whose proposal is determined most advantageous to the state under A.R.S. § 36-2906. If the Administration determines that multiple contracts are in the best interest of the state, the Administration may award multiple contracts. The contract file shall contain the basis on which the award is made.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-603 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

**R9-22-604. Contract or Proposal Protests; Appeals**

- A.** Disputes related to contract performance. This Section does not apply to a dispute related to contract performance. A contract performance dispute is governed by 9 A.A.C. 34.
- B.** Resolution of a proposal protest. The procurement officer issuing a RFP shall have the authority to resolve proposal protests. An appeal from the decision of the procurement officer shall be made to the Director.
- C.** Filing of a protest.
1. A person may file a protest with the procurement officer regarding:
    - a. A RFP issued by the Administration,
    - b. A proposed award, or
    - c. An award of a contract.
  2. A protester shall submit a written protest and include the following information:
    - a. The name, address, and telephone number of the protester;
    - b. The signature of the protester or protester's representative;
    - c. Identification of a RFP or contract number;
    - d. A detailed statement of the legal and factual grounds of the protest including copies of any relevant documents; and
    - e. The relief requested.
- D.** Time for filing a protest.
1. A protester filing a protest alleging improprieties in an RFP or an amendment to an RFP shall file the protest at least 14 days before the due date of receipt of proposals.
  2. Any protest alleging improprieties in an amendment issued 14 or fewer days before the due date of the proposal shall be filed before the due date for receipt of proposals.
  3. In cases other than those covered in subsections (D)(1) and (2), a protester shall file a protest no later than 10 days after the procurement officer makes the procurement file available for public inspection.
- E.** Stay of procurement during the protest. If a protester files a protest before the contract award, the procurement officer may issue a written stay of the contract award. In considering whether to issue a written stay of contract, the procurement officer shall consider but is not limited to considering whether:
1. A reasonable probability exists that the protest will be sustained, and
  2. The stay of the contract award is in the best interest of the state.
- F.** Stay of contract award during an appeal to the Director. The Director shall automatically continue the stay of a contract award if:
1. An appeal is filed before a contract award, and
  2. The procurement officer issues a stay of the contract award under subsection (E), unless

3. The Director issues a written determination that the contract award is necessary to protect the best interest of the state.
- G. Decision by the procurement officer.**
  1. The procurement officer shall issue a written decision no later than 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision.
  2. The procurement officer shall furnish a copy of the decision to the protester by:
    - a. Certified mail, return receipt requested; or
    - b. Any other method that provides evidence of receipt.
  3. The Administration may extend, for good cause, the time-limit for decisions in subsection (G)(1) for a time not to exceed 30 days. The procurement officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
  4. If the procurement officer fails to issue a decision within the time-limits in subsection (G)(1) or (G)(3), the protester may proceed as if the procurement officer issued an adverse decision.
- H. Remedies.**
  1. If the procurement officer sustains the protest in whole or in part and determines that the RFP, proposed contract award, or contract award does not comply with applicable statutes and rules, the procurement officer shall order an appropriate remedy.
  2. In determining an appropriate remedy, the procurement officer shall consider all the circumstances of the procurement or proposed procurement, including:
    - a. Seriousness of the procurement deficiency,
    - b. Degree of prejudice to other interested parties or to the integrity of the RFP process,
    - c. Good faith of the parties,
    - d. Extent of performance,
    - e. Costs to the state, and
    - f. Urgency of the procurement.
    - g. Best interest of the state.
  3. An appropriate remedy may include one or more of the following:
    - a. Terminating the contract;
    - b. Reissuing the RFP;
    - c. Issuing a new RFP;
    - d. Awarding a contract consistent with statutes, rules, and the terms of the RFP; or
    - e. Any relief determined necessary to ensure compliance with applicable statutes and rules.
- I. Appeals to the Director.**
  1. A person may file an appeal of a procurement officer's decision with both the Director and the procurement officer no later than five days from the date the decision is received. The date the decision is received shall be determined under subsection (G)(2).
  2. The appeal shall contain:
    - a. The information required in subsection (C)(2),
    - b. A copy of the procurement officer's decision,
    - c. The alleged factual or legal error in the decision of the procurement officer on which the appeal to the Director is based, and
    - d. A request for hearing unless the person requests that the Director's decision be based solely upon the procurement file.
- J. Dismissal.** The Director shall not schedule a hearing and shall dismiss an appeal with a written determination if:
  1. The appeal does not state a basis for protest,

2. The appeal is untimely under subsection (I)(1), or
3. The appeal is moot.

- K. Hearing.** Hearings under this Section shall be conducted using the Arizona Administrative Procedure Act under A.R.S. Title 41, Ch. 6.

#### Historical Note

Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

#### **R9-22-605. Waiver of Contractor's Subcontract with Hospitals**

If a contractor is unable to obtain a subcontract with a hospital as contractually required, the contractor may request in writing a waiver from the Administration as allowed by A.R.S. § 36-2906. The contractor shall state in the request the reasons a waiver is believed to be necessary and all efforts the contractor has made to secure a subcontract.

#### Historical Note

Adopted effective January 31, 1986 (Supp. 86-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

#### **R9-22-606. Contract Compliance Sanction**

- A.** The Director may impose sanctions upon a contractor for violation of any provision of this Chapter or of a contract. Sanctions include but are not limited to:
1. Suspension of any or all further member enrollment, by choice and/or assignment for a period of time.
  2. Imposition of a monetary sanction.
- B.** The Director shall consider the nature, severity, and length of the violation when determining a sanction.
- C.** The Director shall provide a contractor with written notice specifying grounds and terms for the sanction.
- D.** Nothing contained in this Section shall be construed to prevent the Administration from imposing sanctions as provided in contract under A.R.S. § 36-2903.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

### **ARTICLE 7. STANDARDS FOR PAYMENTS**

#### **R9-22-701. Standard for Payments Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

"Accommodation" means room and board services provided to a patient during an inpatient hospital stay and includes all staffing, supplies, and equipment. The accommodation is semi-private except when the member must be isolated for medical reasons. Types of accommodation include hospital routine medical/surgical units, intensive care units, and any other specialty care unit in which room and board are provided.

“Aggregate” means the combined amount of hospital payments for covered services provided within and outside the GSA.

“AHCCCS inpatient hospital day or days of care” means each day of an inpatient stay for a member beginning with the day of admission and including the day of death, if applicable, but excluding the day of discharge, provided that all eligibility, medical necessity, and medical review requirements are met.

“Ancillary service” means all hospital services for patient care other than room and board and nursing services, including but not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), operating room (including postanesthesia and postoperative recovery rooms), and therapy services (physical, speech, and occupational).

“APC” means the Ambulatory Payment Classification system under 42 CFR 419.31 used by Medicare for grouping clinically and resource-similar procedures and services.

“Billed charges” means charges for services provided to a member that a hospital includes on a claim consistent with the rates and charges filed by the hospital with Arizona Department of Health Services (ADHS).

“Business agent” means a company such as a billing service or accounting firm that renders billing statements and receives payment in the name of a provider.

“Capital costs” means costs as reported by the hospital to CMS as required by 42 CFR 413.20.

“Copayment” means a monetary amount, specified by the Director, that a member pays directly to a contractor or provider at the time covered services are rendered.

“Cost-to-charge ratio” (CCR) means a hospital’s costs for providing covered services divided by the hospital’s charges for the same services. The CCR is the percentage derived from the cost and charge data for each revenue code provided to AHCCCS by each hospital.

“Covered charges” means billed charges that represent medically necessary, reasonable, and customary items of expense for covered services that meet medical review criteria of AHCCCS or a contractor.

“CPT” means Current Procedural Terminology, published and updated by the American Medical Association. CPT is a nationally-accepted listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians that provide a uniform language to accurately designate medical, surgical, and diagnostic services.

“Critical Access Hospital” is a hospital certified by Medicare under 42 CFR 485 Subpart F and 42 CFR 440.170(g).

“Direct graduate medical education costs” or “direct program costs” means the costs that are incurred by a hospital for the education activities of an approved graduate medical education program that are the proximate result of training medical residents in the hospital, including resident salaries and fringe benefits, the portion of teaching physician salaries and fringe benefits that are related to the time spent in teaching and supervision of residents, and other related GME overhead costs.

“DRI inflation factor” means Global Insights Prospective Hospital Market Basket.

“Eligibility posting” means the date a member’s eligibility information is entered into the AHCCCS Pre-paid Medical Management Information System (PMMIS).

“Encounter” means a record of a medically-related service rendered by an AHCCCS-registered provider to a member enrolled with a contractor on the date of service.

“Existing outpatient service” means a service provided by a hospital before the hospital files an increase in its charge master as defined in R9-22-712(G), regardless of whether the service was explicitly described in the hospital charge master before filing the increase or how the service was described in the charge master before filing the increase.

“Expansion funds” means funds appropriated to support GME program expansions as described under A.R.S. § 36-2903.01(H)(9)(b) and (c)(i).

“Factor” means a person or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold, or transferred to the organization for an added fee or a deduction of a portion of the accounts receivable. Factor does not include a business agent.

“Fiscal intermediary” means an organization authorized by CMS to make determinations and payments for Part A and Part B provider services for a given region.

“Freestanding Children’s Hospital” means a separately standing hospital with at least 120 pediatric beds that is dedicated to provide the majority of the hospital’s services to children.

“GME program approved by the Administration” or “approved GME program” means a graduate medical education program that has been approved by a national organization as described in 42 CFR 415.152.

“Graduate medical education (GME) program” means an approved residency program that prepares a physician for independent practice of medicine by providing didactic and clinical education in a medical environment to a medical student who has completed a recognized undergraduate medical education program.

“HCPCS” means the Health Care Procedure Coding System, published and updated by Center for Medicare and Medicaid Services (CMS). HCPCS is a listing of codes and descriptive terminology used for reporting the provision of physician services, other health care services, and substances, equipment, supplies or other items used in health care services.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as specified under 45 CFR 162, that establishes standards and requirements for the electronic transmission of certain health information by defining code sets used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

“ICU” means the intensive care unit of a hospital.

“Indirect program costs” means the marginal increase in operating costs that a hospital experiences as a result of having an approved graduate medical education program and that is not accounted for by the hospital’s direct program costs.

“Intern and Resident Information System” means a software program used by teaching hospitals and the provider community for collecting and reporting information on resident training in hospital and non-hospital settings.

“Medical education costs” means direct hospital costs for intern and resident salaries, fringe benefits, program costs, nursing school education, and paramedical education, as described in the Medicare Provider Reimbursement Manual.

“Medical review” means a clinical evaluation of documentation conducted by AHCCCS or a contractor for purposes of

prior authorization, concurrent review, post-payment review, or determining medical necessity. The criteria for medical review are established by AHCCCS or a contractor based on medical practice standards that are updated periodically to reflect changes in medical care.

“Medicare Urban or Rural Cost-to-Charge Ratio (CCR)” means statewide average capital cost-to-charge ratio published annually by CMS added to the urban or rural statewide average operating cost-to-charge ratio published annually by CMS.

“National Standard code sets” means codes that are accepted nationally in accordance with federal requirements under 45 CFR 160 and 45 CFR 164.

“New hospital” means a hospital for which Medicare Cost Report claim and encounter data are not available for the fiscal year used for initial rate setting or rebasing.

“NICU” means the neonatal intensive care unit of a hospital that is classified as a Level II or Level III perinatal center by the Arizona Perinatal Trust.

“Non-IHS Acute Hospital” means a hospital that is not run by Indian Health Services, is not a free-standing psychiatric hospital, such as an IMD, and is paid under ADHS rates.

“Observation day” means a physician-ordered evaluation period of less than 24 hours to determine whether a person needs treatment or needs to be admitted as an inpatient.

“Operating costs” means AHCCCS-allowable accommodation costs and ancillary department hospital costs excluding capital and medical education costs.

“Organized health care delivery system” means a public or private organization that delivers health services. It includes, but is not limited to, a clinic, a group practice prepaid capitation plan, and a health maintenance organization.

“Outlier” means a hospital claim or encounter in which the operating costs per day for an AHCCCS inpatient hospital stay meet the criteria described under this Article and A.R.S. § 36-2903.01(H).

“Outpatient hospital service” means a service provided in an outpatient hospital setting that does not result in an admission.

“Ownership change” means a change in a hospital’s owner, lessor, or operator under 42 CFR 489.18(a).

“Participating institution” means an institution at which portions of a graduate medical education program are regularly conducted and to which residents rotate for an educational experience for at least one month.

“Peer group” means hospitals that share a common, stable, and independently definable characteristic or feature that significantly influences the cost of providing hospital services, including specialty hospitals that limit the provision of services to specific patient populations, such as rehabilitative patients or children.

“PPC” means prior period coverage. PPC is the period of time, prior to the member’s enrollment, during which a member is eligible for covered services. The time-frame is the first day of the month of application or the first eligible month, whichever is later, until the day a member is enrolled with a contractor.

“PPS bed” means Medicare-approved Prospective Payment beds for inpatient services as reported in the Medicare cost reports for the most recent fiscal year for which the Administration has a complete set of Medicare cost reports for every rural hospital as determined as of the first of February of each year.

“Procedure code” means the numeric or alphanumeric code listed in the CPT or HCPCS manual by which a procedure or service is identified.

“Prospective rates” means inpatient or outpatient hospital rates set by AHCCCS in advance of a payment period and representing full payment for covered services excluding any quick-pay discounts, slow-pay penalties, and first-and third-party payments regardless of billed charges or individual hospital costs.

“Public hospital” means a hospital that is owned and operated by county, state, or hospital health care district.

“Rebase” means the process by which the most currently available and complete Medicare Cost Report data for a year and AHCCCS claim and encounter data for the same year are collected and analyzed to reset the Inpatient Hospital Tiered per diem rates, or the Outpatient Hospital Capped Fee-For-Service Schedule.

“Reinsurance” means a risk-sharing program provided by AHCCCS to contractors for the reimbursement of specified contract service costs incurred by a member beyond a certain monetary threshold.

“Remittance advice” means an electronic or paper document submitted to an AHCCCS-registered provider by AHCCCS to explain the disposition of a claim.

“Resident” means a physician engaged in postdoctoral training in an accredited graduate medical education program, including an intern and a physician who has completed the requirements for the physician’s eligibility for board certification.

“Revenue code” means a numeric code, that identifies a specific accommodation, ancillary service, or billing calculation, as defined by the National Uniform Billing committee for UB-92 forms.

“Specialty facility” means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.

“Sponsoring institution” means the institution or entity that is recognized by the GME accrediting organization and designated as having ultimate responsibility for the assurance of academic quality and compliance with the terms of accreditation.

“Tier” means a grouping of inpatient hospital services into levels of care based on diagnosis, procedure, or revenue codes, peer group, NICU classification level, or any combination of these items.

“Tiered per diem” means an AHCCCS capped fee schedule in which payment is made on a per-day basis depending upon the tier (or tiers) into which an AHCCCS inpatient hospital day of care is assigned.

### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-701 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-701 repealed, new Section R9-22-701 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 2188, effective

tive June 6, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4).

**R9-22-701.01. Reserved****R9-22-701.02. Reserved****R9-22-701.03. Reserved****R9-22-701.04. Reserved****R9-22-701.05. Reserved****R9-22-701.06. Reserved****R9-22-701.07. Reserved****R9-22-701.08. Reserved****R9-22-701.09. Reserved****R9-22-701.10 Scope of the Administration's and Contractor's Liability**

The Administration shall bear no liability for providing covered services for any member beyond the date of termination of the member's eligibility or during the member's enrollment with a contractor. A contractor has no financial responsibility for services provided to a member beyond the last date of enrollment except as provided in Articles 2 and 5 of this Chapter and as specified in contract.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

**R9-22-702. Charges to Members**

- A. For purposes of this subsection, the term "member" includes the member's financially responsible representative as described under A.R.S. § 36-2903.01.
- B. Registered providers must accept payment from the Administration or a contractor as payment in full.
- C. Except as provided in subsection (D) a registered provider shall not request or collect payment from, refer to a collection agency, or report to a credit reporting agency an eligible person or a person claiming to be an eligible person.
- D. An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment from a member:
  1. To collect the copayment described in R9-22-711;
  2. To recover from a member that portion of a payment made by a third party to the member for an AHCCCS covered service if the member has not transferred the payment to the Administration or the contractor as required by the statutory assignment of rights to AHCCCS;
  3. To obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or intentionally provided inaccurate information pertaining to the member's AHCCCS eligibility or enrollment that caused payment to the provider to be reduced or denied;
  4. For a service that is excluded by statute or rule, or provided in an amount that exceeds a limitation in statute or rule, if the member signs a document in advance of receiving the service stating that the member understands the service is excluded or is subject to a limit and that the member will be financially responsible for payment for the excluded service or for the services in excess of the limit;

5. When the contractor or the Administration has denied authorization for a service if the member signs a document in advance of receiving the service stating that the member understands that authorization has been denied and that the member will be financially responsible for payment for the service;
  6. For services requested for a member enrolled with a contractor, and rendered by a noncontracting provider under circumstances where the member's contractor is not responsible for payment of "out of network" services under R9-22-705(A), if the member signs a document in advance of receiving the service stating that the member understands the provider is out of network, that the member's contractor is not responsible for payment, and that the member will be financially responsible for payment for the excluded service;
  7. For services rendered to a person eligible for the FESP if the provider submits a claim to the Administration in the reasonable belief that the service is for treatment of an emergency medical condition and the Administration denies the claim because the service does not meet the criteria of R9-22-217; or
  8. If the provider has received verification from the Administration that the person was not an eligible person on the date of service.
- E. The signature requirement of subsections (D)(4), (5), and (6) do not apply if:
1. The member is unable or incompetent to sign such a document, or
  2. When services are rendered for the purpose of treating an emergency medical condition as defined in R9-22-217 and a delay in providing treatment to obtain a signature would have a significant adverse affect on the member's health.
- F. Except as provided for in this Section, registered providers shall not bill a member when the provider could have received reimbursement from the Administration or a contractor but for the provider's failure to file a claim in accordance with the requirements of AHCCCS statutes, rules, the provider agreement, or contract, such as, but not limited to, requirements to request and obtain prior authorization, timely filing, and clean claim requirements.

**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-702 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text identical to the emergency (Supp. 83-3). Former Section R9-22-702 repealed, new Section R9-22-702 adopted effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (B) effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3).

**R9-22-703. Payments by the Administration**

- A.** General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of March 6, 1992, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B.** Timely submission of claims.
1. Under A.R.S. § 36-2904, the Administration shall deem a paper or electronic claim to be submitted on the date that it is received by the Administration. The Administration shall do one or more of the following for each claim it receives:
    - a. Place a date stamp on the face of the claim,
    - b. Assign a system-generated claim reference number, or
    - c. Assign a system-generated date-specific number.
  2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
    - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
    - b. Six months from the date of eligibility posting.
  3. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
    - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
    - b. Twelve months from the date of eligibility posting.
  4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an IHS or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.
- C.** Claims processing.
1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
  2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
    - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
    - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
    - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
  3. A claim is paid on the date indicated on the disbursement check.
  4. A claim is denied as of the date of the remittance advice.
  5. The Administration shall process a hospital claim under this Article.
- D.** Prior authorization.
1. An AHCCCS-registered provider shall:
    - a. Obtain prior authorization from the Administration for non-emergency hospital admissions and covered services as specified in Articles 2 and 12 of this Chapter,
    - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
    - c. Make records available for review by the Administration upon request.
  2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
  3. If the Administration issues prior authorization for a specific level of care but subsequent medical review indicates that a different level of care was medically appropriate, the Administration shall adjust the claim to pay for the cost of the appropriate level of care.
- E.** Review of claims and coverage for hospital supplies.
1. The Administration may conduct prepayment and post-payment review of any claims, including but not limited to hospital claims.
  2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
    - a. Patient care kit,
    - b. Toothbrush,
    - c. Toothpaste,
    - d. Petroleum jelly,
    - e. Deodorant,
    - f. Septi soap,
    - g. Razor or disposable razor,
    - h. Shaving cream,
    - i. Slippers,
    - j. Mouthwash,
    - k. Shampoo,
    - l. Powder,
    - m. Lotion,
    - n. Comb, and
    - o. Patient gown.
  3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
    - a. Arm board,
    - b. Diaper,
    - c. Underpad,
    - d. Special mattress and special bed,
    - e. Gloves,
    - f. Wrist restraint,
    - g. Limb holder,
    - h. Disposable item used instead of a durable item,
    - i. Universal precaution,
    - j. Stat charge, and
    - k. Portable charge.
  4. The Administration shall determine in a hospital claims review whether services rendered were:
    - a. Covered services as defined in R9-22-102;
    - b. Medically necessary;
    - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
    - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
  5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.
- F.** Overpayment for AHCCCS services.



1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
  2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
  3. The Administration shall document any recoupment of an overpayment on a remittance advice.
  4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.
- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R-22-703 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-703 repealed, new Section R9-22-703 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective September 16, 1987 (Supp. 87-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3).

#### R9-22-704. Repealed

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-704 adopted as an emergency now adopted and amended as a permanent rule effective August 30 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsection A., Paragraph 2. effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

#### R9-22-705. Payments by Contractors

- A.** General requirements. A contractor shall contract with providers to provide covered services to members enrolled with the contractor. The contractor is responsible for reimbursing providers and coordinating care for services provided to a member. Except as provided in subsection (A)(2), a contractor is not required to reimburse a noncontracting provider for services rendered to a member enrolled with the contractor.
1. Providers. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of March 6, 1992, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
  2. A contractor shall reimburse a noncontracting provider for services rendered to a member enrolled with the contractor as specified in this Article if:
    - a. The contractor referred the member to the provider or authorized the provider to render the services and the claim is otherwise payable under this Chapter, or
    - b. The service is emergent under Article 2 of this Chapter.
- B.** Timely submission of claims.
1. Under A.R.S. § 36-2904, a contractor shall deem a paper or electronic claim as submitted on the date that the claim is received by the contractor. The contractor shall do one or more of the following for each claim the contractor receives:
    - a. Place a date stamp on the face of the claim,
    - b. Assign a system-generated claim reference number, or
    - c. Assign a system-generated date-specific number.
  2. Unless a shorter time period is specified in subcontract, a contractor shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
    - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
    - b. Six months from the date of eligibility posting.
  3. Unless a shorter time period is specified in subcontract, a contractor shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
    - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
    - b. Twelve months from the date of eligibility posting.
- C.** Date of claim.
1. A contractor's date of receipt of an inpatient or an outpatient hospital claim is the date the claim is received by the contractor as indicated by the date stamp on the claim, the system-generated claim reference number, or the system-generated date-specific number assigned by the contractor.
  2. A hospital claim is considered paid on the date indicated on the disbursement check.
  3. A denied hospital claim is considered adjudicated on the date of the claim's denial.
  4. For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the contractor shall assign a new date of receipt upon receipt of the additional documentation.
  5. For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the contractor shall not assign a new date of receipt.
  6. A contractor and a hospital may, through a contract approved as specified in R9-22-715, adopt a method for identifying, tracking, and adjudicating a claim that is different from the method described in this subsection.
- D.** Payment for in-state inpatient hospital services. A contractor shall reimburse an in-state provider of inpatient hospital services rendered with an admission date on or after March 1, 1993, at either a rate specified by subcontract or, in absence of the subcontract, the prospective tiered-per-diem amount in

A.R.S. § 36-2903.01 and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715. This subsection does not apply to an urban contractor as specified in R9-22-718 and A.R.S. § 36-2905.01.

**E. Payment for in-state outpatient hospital services.**

1. A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after March 1, 1993 through June 30, 2005, at either a rate specified by a subcontract that complies with R9-22-715(A) or, in absence of a subcontract, as described in R9-22-712 or under A.R.S. § 36-2903.01. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
2. A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after July 1, 2005, at either a rate specified by a subcontract or, in absence of a subcontract, as provided under R9-22-712.10, A.R.S. § 36-2903.01 and other sections of this Article. The terms of the subcontract are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.

**F. Inpatient and outpatient out-of-state hospital payments.** In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered inpatient services by multiplying covered charges by the most recent state-wide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b). In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the contractor shall pay the claim by multiplying the covered charges for the outpatient services by the state-wide outpatient cost-to-charge ratio.

**G. Payment for observation days.** A contractor shall reimburse a provider and a noncontracting provider for the provision of observation days at either a rate specified by subcontract or, in the absence of a subcontract, as prescribed under R9-22-712, R9-22-712.10, and R9-22-712.45. An "observation day" means a physician-ordered evaluation period of less than 24 hours to determine the need of treatment or the need for admission as an inpatient.

**H. Review of claims and coverage for hospital supplies.**

1. A contractor may conduct a review of any claims submitted and recoup any payments made in error.
2. A hospital shall obtain prior authorization from the appropriate contractor for nonemergency admissions. When issuing prior authorization, a contractor shall consider the medical necessity of the service, and the availability and cost effectiveness of an alternative treatment. Failure to obtain prior authorization when required is cause for nonpayment or denial of a claim. A contractor shall not require prior authorization for medically necessary services provided during any prior period for which the contractor is responsible. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of the subcontract regarding utilization control activities. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and shall make the hospital's medical records pertaining to a member enrolled with a contractor available for review.
3. Regardless of prior authorization or concurrent review activities, a contractor may make prepayment or post-payment review of all claims, including but not limited to a hospital claim. A contractor may recoup an erroneously

paid claim. If prior authorization was given for a specific level of care, but medical review of a claim indicates that a different level of care was medically appropriate, a contractor shall adjust the claim to pay for the cost for the appropriate level of care. An adjustment in payment for a different level of care is effective on the date when the different level of care is medically appropriate.

4. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures if the subcontract meets the requirements of R9-22-715.
5. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
  - a. Patient care kit,
  - b. Toothbrush,
  - c. Toothpaste,
  - d. Petroleum jelly,
  - e. Deodorant,
  - f. Septi soap,
  - g. Razor,
  - h. Shaving cream,
  - i. Slippers,
  - j. Mouthwash,
  - k. Disposable razor,
  - l. Shampoo,
  - m. Powder,
  - n. Lotion,
  - o. Comb, and
  - p. Patient gown.
6. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
  - a. Arm board,
  - b. Diaper,
  - c. Underpad,
  - d. Special mattress and special bed,
  - e. Gloves,
  - f. Wrist restraint,
  - g. Limb holder,
  - h. Disposable item used instead of a durable item,
  - i. Universal precaution,
  - j. Stat charge, and
  - k. Portable charge.
7. The contractor shall determine in a hospital claims review whether services rendered were:
  - a. Covered services as defined in R9-22-102;
  - b. Medically necessary;
  - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
  - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2904.
8. If a contractor adjudicates a claim or recoups payment for a claim, a person may file a claim dispute challenging the adjudication or recoupment as described under 9 A.A.C. 34.
- I. Non-hospital claims.** A contractor shall pay claims for non-hospital services in accordance with contract, or in the absence of a contract, at a rate not less than the Administration's capped fee-for-service schedule or at a lower rate if negotiated between the two parties.
- J. Payments to hospitals.** A contractor shall pay for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and as described in A.R.S. § 36-2904:

1. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
2. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
3. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a 1 percent penalty of the rate for each month or portion of the month following the 60th day of receipt of the bill until date of payment.

- K.** Interest payment. In addition to the requirements in subsection (J), a contractor shall pay interest for late claims as defined by contract.
- L.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-705 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of the amended rule identical to emergency (Supp. 83-3). Former Section R9-22-705 repealed, new Section R9-22-705 adopted effective October 1, 1983 (Supp. 83-5).

Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1).

Amended effective October 1, 1985 (Supp. 85-5).

Amended subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (C) effective October 1, 1987; amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3).

#### R9-22-706. Repealed

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-706 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-706 repealed, new Section R9-22-706 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency

effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5).

Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (D), (E), (F), and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (F) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (F) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4).

#### R9-22-707. Repealed

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-707 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Repealed as a permanent action effective May 16, 1983 (Supp. 83-3).

New Section R9-22-707 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1985 (Supp. 85-5). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

#### R9-22-708. Payments for Services Provided to Eligible Native Americans

- A.** For purposes of this Article “IHS enrolled” or “enrolled with IHS” means a Native American who has elected to receive covered services through IHS instead of a contractor.
- B.** For a Native American who is enrolled with IHS, AHCCCS shall pay IHS the most recent all-inclusive inpatient, outpatient or ambulatory surgery rates published by Health and Human Services (HHS) in the *Federal Register*, or a separately contracted rate with IHS, for AHCCCS-covered services provided in an IHS facility. AHCCCS shall reimburse providers for the Medicare coinsurance and deductible amounts required to be paid by the Administration or contractor in Chapter 29, Article 3 of this Title.
- C.** When IHS refers a Native American enrolled with IHS to a provider other than an IHS or tribal facility, the provider to whom the referral is made shall obtain prior authorization from AHCCCS for services as required under Articles 2, 7 or 12 of this Chapter.

- D. For a Native American enrolled with a contractor, AHCCCS shall pay the contractor a monthly capitation payment.
- E. Once a Native American enrolls with a contractor, AHCCCS shall not reimburse any provider other than IHS or a Tribal facility.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-708 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-708 repealed, new Section R9-22-708 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-708 renumbered and amended as Section R9-22-709, new Section R9-22-708 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4).

#### R9-22-709. Contractor's Liability to Hospitals for the Provision of Emergency and Post-stabilization Care

A contractor is liable for emergency hospitalization and post-stabilization care as described in R9-22-210 and R9-22-210.01.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-709 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-709 repealed, new Section R9-22-709 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-709 renumbered and amended as Section R9-22-713, former Section R9-22-708 renumbered and amended as Section R9-22-709 effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

*Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.*

#### R9-22-710. Payments for Non-hospital Services

- A. Capped fee-for-service. The Administration shall provide notice of changes in methods and standards for setting payment rates for services in accordance with 42 CFR 447.205, December 19, 1983, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
  - 1. Non-contracted services. In the absence of a contract that specifies otherwise, a contractor shall reimburse a provider or noncontracting provider for non-hospital services according to the Administration's capped-fee-for-service schedule.

- 2. Procedure codes. The Administration shall maintain a current copy of the National Standard Code Sets mandated under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004), incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
  - a. A person shall submit an electronic claim consistent with 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
  - b. A person shall submit a paper claim using the National Standard Code Sets as described under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
  - c. The Administration may deny a claim for failure to comply with subsection (A)(2)(a) or (b).
- 3. Fee schedule. The Administration shall pay providers, including noncontracting providers, at the lesser of billed charges or the capped fee-for-service rates specified in subsections (A)(3)(a) through (d) unless a different fee is specified in a contract between the Administration and the provider, or is otherwise required by law.
  - a. Physician services. Fee schedules for payment for physician services are on file at the central office of the Administration for reference use during customary business hours.
  - b. Dental services. Fee schedules for payment for dental services are on file at the central office of the Administration for reference use during customary business hours.
  - c. Transportation services. Fee schedules for payment for transportation services are on file at the central office of the Administration for reference use during customary business hours.
  - d. Medical supplies and durable medical equipment (DME). Fee schedules for payment for medical supplies and DME are on file at the central office of the Administration for reference use during customary business hours. The Administration shall reimburse a provider once for purchase of DME during any two-year period, unless the Administration determines that DME replacement within that period is medically necessary for the member. Unless prior authorized by the Administration, no more than one repair and adjustment of DME shall be reimbursed during any two-year period.
- B. Pharmacy services. The Administration shall not reimburse pharmacy services unless the services are provided by a pharmacy having a subcontract with a Pharmacy Benefit Manager (PBM) contracted with AHCCCS. Except as specified in subsection (C), the Administration shall reimburse pharmacy services according to the terms of the contract.
- C. FQHC Pharmacy reimbursement.
  - 1. For purposes of this Section the following terms are defined:
    - a. "340B Drug Pricing Program" means the discount drug purchasing program described in 42 U.S.C. 256b.
    - b. "340B Ceiling Price" means the maximum price that drug manufacturers can charge covered entities participating in the 340B Drug Pricing Program as reported by the drug manufacturer to HRSA.
    - c. "340B entity" means a covered entity, eligible to participate in the 340B Drug Pricing Program, as

- defined by the Health Resources and Human Services Administration.
- d. "Actual Acquisition Cost (AAC)" means the purchase price of a drug paid by a pharmacy net of discounts, rebates, chargebacks and other adjustments to the price of the drug. The AAC excludes dispensing fees.
  - e. "Contracted Pharmacy" means an arrangement through which a 340B entity may contract with an outside pharmacy to provide comprehensive pharmacy services utilizing medications subject to 340B pricing.
  - f. "Dispensing Fee" means the amount paid for the professional services provided by the pharmacist for dispensing a prescription. The Dispensing Fee does not include any payment for the drugs being dispensed.
  - g. "Federally Qualified Health Center" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the criteria under sections 1861(aa)(4) and 1905(l)(2)(B) of the Social Security Act and receives funds under section 330 of the Public Health Service Act.
  - h. "Federally Qualified Health Center Look-Alike" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the definition of "health center" under section 330 of the Public Health Service Act, but does not receive grant funding under section 330.
  - i. "FQHC or FQHC Look-Alike pharmacy" means a pharmacy that dispenses drugs to FQHC or FQHC-LA patients and that is owned and/or operated by an FQHC/FQHC-LA or by an entity that reports the costs of an FQHC/FQHC-LA on its Medicare Cost Report, whether or not collocated with an FQHC or an FQHC Look-Alike.
2. Effective the later of February 1, 2012, or CMS approval of a State Plan Amendment, an FQHC or FQHC Look-Alike shall:
    - a. Notify the AHCCCS provider registration unit of its status as a 340B covered entity no later than:
      - i. 30 days after the effective date of this Section,
      - ii. 30 days after registration with the Health Resources and Services Administration (HRSA) for participation in the 340B program, or
      - iii. The time of application to become an AHCCCS provider.
    - b. Provide the 340B pricing file to the AHCCCS Administration upon request. The 340B pricing file shall be provided in the file format as defined by AHCCCS.
    - c. Identify 340B drug claims submitted to the AHCCCS FFS PBM or the Managed Care Contractors' PBMs for reimbursement. The 340B drug claim identification and claims processing for a drug claim submission shall be consistent with claim instructions issued and required by AHCCCS to identify such claims.
  3. The FQHC and the FQHC Look-Alike pharmacies shall submit claims for AHCCCS members for drugs that are identified in the 340B pricing file, whether or not purchased under the 340B pricing file, with the lesser of:
    - a. The actual acquisition cost, or
    - b. The 340B ceiling price.
  4. The AHCCCS Fee-for-Service and Managed Care Contractors' PBMs shall reimburse claims for drugs which are identified in the 340B pricing file dispensed by FQHC and FQHC Look-Alike pharmacies, whether or not purchased under the 340B pricing file, at the amount submitted under subsection (C)(3) plus a dispensing fee listed in the AHCCCS Capped Fee-For-Service Schedule unless a contract between the 340B entity and a Managed Care Contractor's PBM specifies a different dispensing fee.
  5. Contracted pharmacies shall not submit claims for drugs dispensed under an agreement with the 340B entity as part of the 340B drug pricing program, and the AHCCCS Administration and Managed Care Contractors shall not reimburse such claims.
  6. The AHCCCS Administration and Managed Care Contractors shall reimburse contracted pharmacies for drugs not dispensed under an agreement with the 340B entity as part of the 340B program at the price and dispensing fee set forth in the contract between the contracted pharmacy and the AHCCCS or its Managed Care Contractors' PBMs. Neither the Administration nor its Managed Care Contractors will reimburse a contracted pharmacy that does not have a contract with the Administration or MCO's PBM.
  7. The AHCCCS Administration and its Managed Care Contractors shall reimburse FQHC and FQHC Look-Alike pharmacies for drugs that are not eligible under the 340B Drug Pricing Program at the price and dispensing fee set forth in their contract with the AHCCCS or its Managed Care Contractors' PBMs.
  8. AHCCCS may periodically conduct audits to ensure compliance with this Section.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-710 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of amended rule identical to emergency (Supp. 83-3). Former Section R9-22-710 repealed, new Section R9-22-710 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985. The capped fee-for-service schedules, deleted from Section R9-22-710, are now on file at the central office of the Administration (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective July 1, 1988 (Supp. 88-3). Amended subsection (B) effective April 27, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3830, effective November 12, 2005 (Supp. 05-3). Amended by exempt rulemaking at 18 A.A.R. 212, effective February 1, 2012 (Supp. 12-1). Amended by exempt rulemaking at 18 A.A.R. 1971, effective August 1, 2012 (Supp. 12-3).

#### R9-22-711. Copayments

- A. For purposes of this Article:

1. A copayment is a monetary amount that a member pays directly to a provider at the time a covered service is rendered.
  2. An eligible individual is assigned to a hierarchy established in subsections (B) through (F), for the purposes of establishing a copayment amount.
  3. No refunds shall be made for a retroactive period if there is a change in an individual's status that alters the amount of a copayment.
- B.** The following services are exempt from AHCCCS copayments:
1. Family planning services and supplies are exempt from copayments for all members.
  2. Services related to a pregnancy or any other medical condition that may complicate the pregnancy, including tobacco cessation treatment for a pregnant woman, are exempt from copayments for all members.
  3. Emergency services as described in 42 CFR 447.53(b)(4) are exempt from copayments for all members.
  4. All services paid on a fee-for-service basis are exempt from copayments for all members.
- C.** The following individuals are exempt from AHCCCS copayments:
1. An individual under age 19, including individuals eligible for the KidsCare Program in A.R.S. § 36-2982;
  2. An individual determined to be Seriously Mentally Ill (SMI) by the Arizona Department of Health Services;
  3. An individual eligible for the Arizona Long-term Care Program in A.R.S. § 36-2931;
  4. An individual eligible for Medicare Cost Sharing in 9 A.A.C. 29;
  5. An individual eligible for the Children's Rehabilitative Services program under A.R.S. § 36-2906(E);
  6. An institutionalized person under R9-22-216; and
  7. An individual receiving hospice care as defined in 42 U.S.C. 1396d(o).
  8. An American Indian individual enrolled in a health plan and who has received services through an IHS facility, tribal 638 facility or urban Indian health program.
- D.** Copayments for non-Transitional Medical Assistance (TMA) individuals covered under the State Plan. Unless otherwise listed in subsection (B) or (C), individuals under subsections (D)(1) through (8) are subject to the copayments listed in this subsection. A provider shall not deny a service when a member states to the provider an inability to pay a copayment.
1. A family eligible under Section 1931 of the Act;
  2. An individual eligible for Young Adult Transitional Insurance (YATI) in A.R.S. § 36-2901(6)(iii);
  3. An individual eligible for State Adoption Assistance in R9-22-1433;
  4. An individual eligible for Supplemental Security Income (SSI);
  5. An individual eligible for SSI Medical Assistance Only (SSI/MAO) in R9-22-1500;
  6. An individual eligible for the Freedom to Work program in A.R.S. § 36-2901(6)(g); and
  7. An individual eligible for the Breast and Cervical Cancer Treatment program in A.R.S. § 36-2901.05.
  8. An individual with respect to whom child welfare services are made available under Part B of Title IV of the Social Security Act on the basis of being a child in foster care, without regard to age or an individual with respect to whom adoption or foster care assistance is made available under Part E of Title IV of the Social Security Act, without regard to age.
  9. Copayment amount per service:
    - a. \$2.30 per prescription drug.
    - b. \$3.40 per outpatient visit, excluding an emergency room visit, if any of the services rendered during the visit are coded as evaluation and management services or non-emergent surgical procedures according to the National Standard Code Sets. An outpatient visit includes any setting where these services are performed such as a physician's office, an Ambulatory Surgical Center (ASC), or a clinic.
    - c. \$2.30 per visit, if a copayment is not being imposed under subsection (D)(9)(b) and any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
- E.** Copayments for individuals eligible for Transitional Medical Assistance.
1. Unless otherwise listed in subsection (C)(1), (2), (5), (6), (7) or (D)(1) through (8), an individual eligible for Transitional Medical Assistance (TMA) in A.R.S. § 36-2924 is required to pay the following copayments:
    - a. \$2.30 per prescription drug.
    - b. \$4.00 per outpatient visit, excluding an emergency room visit, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets. An outpatient visit includes any setting where these services are performed, such as a physician's office, an Ambulatory Surgical Center (ASC), or a clinic.
    - c. If a copayment is not being imposed under subsection (E)(1)(b), \$3.00 per visit if any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
    - d. If a copayment is not being imposed under subsection (E)(1)(b) or (c), \$3.00 per visit, if any of the services rendered during the visit are coded as non-emergent surgical procedures according to the National Standard Code Sets when provided in a physician's office, an (ASC), or any other outpatient setting, excluding an emergency room, where these services are performed.
  2. The provider may deny a service if the member does not pay the copayment required by subsection (E)(1), however, a provider may choose to reduce or waive copayments under this subsection on a case-by-case basis.
- F.** Copayments for individuals covered under Section 1115 Waiver. Unless otherwise listed in subsection (C), (D), or (E) the individuals whose income is equal to or under 100% of the Federal Poverty Level in A.R.S. § 36-2901.01 are required to pay the copayments listed in this subsection. The provider may deny a service if the member does not pay the required copayment. However, a provider may choose to reduce or waive copayments under this subsection on a case-by-case basis.

Covered Services	Copayment
Generic prescriptions or brand name prescriptions if generic is not available	\$4.00 per prescription drug
Brand name prescriptions when generic is available	\$10.00 per prescription drug
Nonemergency use of the emergency room.	\$30.00 per visit
Physician office visit	\$5.00 per office visit

Taxi transportation (Maricopa and Pima county residents only)	\$2.00 per one-way trip
--	-------------------------

- G.** A provider is responsible for collecting any copayment imposed under this Section.
- H.** The total aggregate amount of copayments under subsections (D) or (E) may not exceed 5% of the family's income as applied on a quarterly basis. The member may establish that the aggregate limit has been met on a quarterly basis by providing the Administration with records of copayments incurred during the quarter. In addition, the Administration shall also use claims and encounters information available to the Administration to establish when a member's copayment obligation has reached 5% of the family's income.
- I.** Reduction in payments to providers. The Administration shall reduce the payment it makes to any provider by the amount of a member's copayment obligation under subsections (E) and (F), regardless of whether the provider successfully collects the copayments described in this Section.

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Sections R9-22-711 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-711 repealed, new Section R9-22-711 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4557, effective October 1, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 2194, effective May 3, 2004 (Supp. 04-2). Amended by exempt rulemaking at 10 A.A.R. 4266, effective October 1, 2004 (Supp. 04-3). Amended by final rulemaking at 16 A.A.R. 1449, effective October 1, 2010 (Supp. 10-3). Section amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1).

**Editor's Note:** The following Section was adopted and amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

#### R9-22-712. Reimbursement: General

- A.** Inpatient and outpatient discounts and penalties. If a claim is pending for additional documentation required under A.R.S. § 36-2903.01(H)(4), the period during which the claim is pending is not used in the calculation of the quick-pay discounts and slow-pay penalties under A.R.S. § 36-2903.01(H)(5).
- B.** Inpatient and outpatient out-of-state hospital payments. In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse out-of-state hos-

pitals for covered inpatient services by multiplying covered charges by the most recent state-wide urban cost-to-charge ratio as determined in R9-22-712.01(6)(d). In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse an out-of-state hospital for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the Administration shall pay the claim by multiplying the covered charges for the outpatient services by the state-wide outpatient cost-to-charge ratio.

- C.** Access to records. Subcontracting and noncontracting providers of outpatient or inpatient hospital services shall allow the Administration access to medical records regarding eligible persons and shall in all other ways fully cooperate with the Administration or the Administration's designated representative in performance of the Administration's utilization control activities. The Administration shall deny a claim for failure to cooperate.
- D.** Prior authorization. The Administration or contractor may deny a claim if a provider fails to obtain prior authorization as required under R9-22-210.
- E.** Review of claims. Regardless of prior authorization or concurrent review activities, the Administration may subject all hospital claims, including outliers, to prepayment medical review or post-payment review, or both. The Administration shall conduct post-payment reviews consistent with A.R.S. § 36-2903.01 and may recoup erroneously paid claims. If prior authorization was given for a specific level of care but medical review of the claim indicates that a different level of care was appropriate, the Administration may adjust the claim to reflect the more appropriate level of care, effective on the date when the different level of care was medically appropriate.
- F.** Claim receipt.
1. The Administration's date of receipt of inpatient or outpatient hospital claims is the date the claim is received by the Administration as indicated by the date stamp on the claim and the system-generated claim reference number or system-generated date-specific number.
  2. Hospital claims are considered paid on the date indicated on disbursement checks.
  3. A denied claim is considered adjudicated on the date the claim is denied.
  4. Claims that are denied and are resubmitted are assigned new receipt dates.
  5. For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the Administration shall assign a new date of receipt upon receipt of the additional documentation.
  6. For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the Administration shall not assign a new date of receipt.

- G.** Outpatient hospital reimbursement. The Administration shall pay for covered outpatient hospital services provided to eligible persons with dates of service from March 1, 1993 through June 30, 2005, at the AHCCCS outpatient hospital cost-to-charge ratio, multiplied by the amount of the covered charges.
1. Computation of outpatient hospital reimbursement. The Administration shall compute the cost-to-charge ratio on a hospital-specific basis by determining the covered charges and costs associated with treating eligible persons in an outpatient setting at each hospital. Outpatient operating and capital costs are included in the computation but outpatient medical education costs that are included in the inpatient medical education component

are excluded. To calculate the outpatient hospital cost-to-charge ratio annually for each hospital, the Administration shall use each hospital's Medicare Cost Reports and a database consisting of outpatient hospital claims paid and encounters processed by the Administration for each hospital, subjecting both to the data requirements specified in R9-22-712.01. The Administration shall use the following methodology to establish the outpatient hospital cost-to-charge ratios:

- a. Cost-to-charge ratios. The Administration shall calculate the costs of the claims and encounters for outpatient hospital services by multiplying the ancillary line item cost-to-charge ratios by the covered charges for corresponding revenue codes on the claims and encounters. Each hospital shall provide the Administration with information on how the revenue codes used by the hospital to categorize charges on claims and encounters correspond to the ancillary line items on the hospital's Medicare Cost Report. The Administration shall then compute the overall outpatient hospital cost-to-charge ratio for each hospital by taking the average of the ancillary line items cost-to-charge ratios for each revenue code weighted by the covered charges.
- b. Cost-to-charge limit. To comply with 42 CFR 447.325, the Administration may limit cost-to-charge ratios to 1.00 for each ancillary line item from the Medicare Cost Report. The Administration shall remove ancillary line items that are non-covered or not applicable to outpatient hospital services from the Medicare Cost Report data for purposes of computing the overall outpatient hospital cost-to-charge ratio.
2. New hospitals. The Administration shall reimburse new hospitals at the weighted statewide average outpatient hospital cost-to-charge ratio multiplied by covered charges. The Administration shall continue to use the statewide average outpatient hospital cost-to-charge ratio for a new hospital until the Administration rebases the outpatient hospital cost-to-charge ratios and the new hospital has a Medicare Cost Report for the fiscal year being used in the rebasing.
3. Specialty outpatient services. The Administration may negotiate, at any time, reimbursement rates for outpatient hospital services in a specialty facility.
4. Reimbursement requirements. To receive payment from the Administration, a hospital shall submit claims that are legible, accurate, error free, and have a covered charge greater than zero. The Administration shall not reimburse hospitals for emergency room treatment, observation hours or days, or other outpatient hospital services performed on an outpatient basis, if the eligible person is admitted as an inpatient to the same hospital directly from the emergency room, observation area, or other outpatient department. Services provided in the emergency room, observation area, and other outpatient hospital services provided before the hospital admission are included in the tiered per diem payment.
5. Rebasing. The Administration shall rebase the outpatient hospital cost-to-charge ratios at least every four years but no more than once a year using updated Medicare Cost Reports and claim and encounter data.
6. If a hospital files an increase in its charge master for an existing outpatient service provided on or after July 1, 2004, and on or before June 30, 2005, which represents an aggregate increase in charges of more than 4.7%, the

Administration shall adjust the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) by applying the following formula:

$$CCR * [1.047 / (1 + \% \text{ increase})]$$

Where "CCR" means the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) and "% increase" means the aggregate percentage increase in charges for outpatient services shown on the hospital charge master.

"Charge master" means the schedule of rates and charges as described under A.R.S. § 36-436 and the rules that relate to those rates and charges that are filed with the Director of the Arizona Department of Health Services.

#### Historical Note

Adopted as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to emergency (Supp. 83-3). Former Section R9-22-712 repealed, new Section R9-22-712 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). New Section R9-22-712 adopted under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective January 14, 1997 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 3831, effective August 25, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

#### R9-22-712.01. Inpatient Hospital Reimbursement

Inpatient hospital reimbursement. The Administration shall pay for covered inpatient acute care hospital services provided to eligible persons with admissions on and after October 1, 1998, on a prospective reimbursement basis. The prospective rates represent payment in full, excluding quick-pay discounts, slow-pay penalties, and third-party payments for both accommodation and ancillary department services. The rates include reimbursement for operating and capital costs. The Administration shall make reimbursement for direct graduate medical education as described in A.R.S. § 36-2903.01. For payment purposes, the Administration shall classify each AHCCCS inpatient hospital day of care into one of several tiers appropriate to the services rendered. The rate for a tier is referred to as the tiered per diem rate of reimbursement. The number of tiers is seven and the maximum number of tiers payable per continuous stay is two. Payment of outlier claims, transplant claims, or payment to out-of-state hospitals, freestanding psychiatric hospitals, and other specialty facilities may differ from the inpatient hospital tiered per diem rates of reimbursement described in this Section.

1. Tier rate data. The Administration shall base tiered per diem rates effective on and after October 1, 1998 on Medicare Cost Reports for Arizona hospitals for fiscal years ending in 1996 and a database consisting of inpatient hospital claims and encounters for dates of service matching each hospital's 1996 fiscal year end.



- a. Medicare Cost Report data. Because Medicare Cost Report years are not standard among hospitals and were not audited at the time of the rate calculation, the Administration shall inflate all the costs to a common point in time as described in subsection (2) for each component of the tiered per diem rates. The Administration shall not make any changes to the tiered per diem rates if the Medicare Cost Report data are subsequently updated or adjusted. If a single Medicare Cost Report is filed for more than one hospital, the Administration shall allocate the costs to each of the respective hospitals. A hospital shall submit information to assist the Administration in this allocation.
  - b. Claim and encounter data. For the database, the Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were accepted and processed by the Administration at the time the database was developed for rates effective on and after October 1, 1998. The Administration shall subject the claim and encounter data to a series of data quality, reasonableness, and integrity edits and shall exclude from the database or adjust claims and encounters that fail these edits. The Administration shall also exclude from the database the following claims and encounters:
    - i. Those missing information necessary for the rate calculation,
    - ii. Medicare crossovers,
    - iii. Those submitted by freestanding psychiatric hospitals, and
    - iv. Those for transplant services or any other hospital service that the Administration would pay on a basis other than the tiered per diem rate.
2. Tier rate components. The Administration shall establish inpatient hospital prospective tiered per diem rates based on the sum of the operating and capital components. The rate for the operating component is a statewide rate for each tier except for the NICU and Routine tiers, which are based on peer groups. The rate for the capital component is a blend of statewide and hospital-specific values, as described in A.R.S. § 36-2903.01. The Administration shall use the following methodologies to establish the rates for each of these components.
    - a. Operating component. Using the Medicare Cost Reports and the claim and encounter database, the Administration shall compute the rate for the operating component as follows:
      - i. Data preparation. The Administration shall identify and group into department categories, the Medicare Cost Report data that provide ancillary department cost-to-charge ratios and accommodation costs per day. To comply with 42 CFR 447.271, the Administration shall limit cost-to-charge ratios to 1.00 for each ancillary department.
      - ii. Operating cost calculation. To calculate the rate for the operating component, the Administration shall derive the operating costs from claims and encounters by combining the Medicare Cost Report data and the claim and encounter database for all hospitals. In performing this calculation, the Administration shall match the revenue codes on the claims and encounters to the departments in which the line items on the Medicare Cost Reports are grouped. The ancillary department cost-to-charge ratios for a particular hospital are multiplied by the covered ancillary department charges on each of the hospital's claims and encounters. The AHCCCS inpatient days of care on the particular hospital's claims and encounters are multiplied by the corresponding accommodation costs per day from the hospital's Medicare Cost Report. The ancillary cost-to-charge ratios and accommodation costs per day do not include medical education and capital costs. The Administration shall inflate the resulting operating costs for the claims and encounters of each hospital to a common point in time, December 31, 1996, using the DRI inflation factor and shall reduce the operating costs for the hospital by an audit adjustment factor based on available national data and Arizona historical experience in adjustments to Medicare reimbursable costs. The Administration shall further inflate operating costs to the midpoint of the rate year (March 31, 1999).
    - iii. Operating cost tier assignment. After calculating the operating costs, the Administration shall assign the claims and encounters used in the calculation to tiers based on diagnosis, procedure, or revenue codes, or NICU classification level, or a combination of these. For the NICU tier, the Administration shall further assign claims and encounters to NICU Level II or NICU Level III peer groups, based on the hospital's certification by the Arizona Perinatal Trust. For the Routine tier, the Administration shall further assign claims and encounters to the general acute care hospital or rehabilitation hospital peer groups, based on state licensure by the Department of Health Services. For claims and encounters assigned to more than one tier, the Administration shall allocate ancillary department costs to the tiers in the same proportion as the accommodation costs. Before calculating the rate for the operating component, the Administration shall identify and exclude any claims and encounters that are outliers as defined in subsection (6).
    - iv. Operating rate calculation. The Administration shall set the rate for the operating component for each tier by dividing total statewide or peer group hospital costs identified in this subsection within the tier by the total number of AHCCCS inpatient hospital days of care reflected in the claim and encounter database for that tier.
    - b. Capital component. For rates effective October 1, 1999 the capital component is calculated as described in A.R.S. § 36-2903.01.
    - c. Statewide inpatient hospital cost-to-charge ratio. For dates of service prior to October 1, 2007, the statewide inpatient hospital cost-to-charge ratio is used for payment of outliers, as described in subsections (4), (5), and (6), and out-of-state hospitals, as described in R9-22-712(B). The Administration shall calculate the AHCCCS statewide inpatient hospital cost-to-charge ratio by using the Medicare Cost Report data and claim and encounter database described in subsection (1) and used to determine the tiered per diem rates. For each hospital, the cov-

- ered inpatient days of care on the claims and encounters are multiplied by the corresponding accommodation costs per day from the Medicare Cost Report. Similarly, the covered ancillary department charges on the claims and encounters are multiplied by the ancillary department cost-to-charge ratios. The accommodation costs per day and the ancillary department cost-to-charge ratios for each hospital are determined in the same way described in subsection (2)(a) but include costs for operating and capital. The Administration shall then calculate the statewide inpatient hospital cost-to-charge ratio by summing the covered accommodation costs and ancillary department costs from the claims and encounters for all hospitals and dividing by the sum of the total covered charges for these services for all hospitals.
- d. Unassigned tiered per diem rates. If a hospital has an insufficient number of claims to set a tiered per diem rate, the Administration shall pay that hospital the statewide average rate for that tier.
3. Tier assignment. The Administration shall assign AHCCCS inpatient hospital days of care to tiers based on information submitted on the inpatient hospital claim or encounter including diagnosis, procedure, or revenue codes, peer group, NICU classification level, or a combination of these.
    - a. Tier hierarchy. In assigning claims for AHCCCS inpatient hospital days of care to a tier, the Administration shall follow the Hierarchy for Tier Assignment in R9-22-712.09. The Administration shall not pay a claim for inpatient hospital services unless the claim meets medical review criteria and the definition of a clean claim. The Administration shall not pay for a hospital stay on the basis of more than two tiers, regardless of the number of interim claims that are submitted by the hospital.
    - b. Tier exclusions. The Administration shall not assign to a tier or pay AHCCCS inpatient hospital days of care that do not occur during a period when the person is eligible. Except in the case of death, the Administration shall pay claims in which the day of admission and the day of discharge are the same, termed a same day admit and discharge, including same day transfers, as an outpatient hospital claim. The Administration shall pay same day admit and discharge claims that qualify for either the maternity or nursery tiers based on the lesser of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.
    - c. Seven tiers. The seven tiers are:
      - i. Maternity. The Administration shall identify the Maternity Tier by a primary diagnosis code. If a claim has an appropriate primary diagnosis, the Administration shall pay the AHCCCS inpatient hospital days of care on the claim at the maternity tiered per diem rate.
      - ii. NICU. The Administration shall identify the NICU Tier by a revenue code. A hospital does not qualify for the NICU tiered per diem rate unless the hospital is classified as either a NICU Level II or NICU Level III perinatal center by the Arizona Perinatal Trust. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meet the medical review criteria for the NICU tier and have a NICU revenue code at the NICU tiered per diem rate. The Administration shall pay any remaining AHCCCS inpatient hospital day on the claim that does not meet NICU Level II or NICU Level III medical review criteria at the nursery tiered per diem rate.
      - iii. ICU. The Administration shall identify the ICU Tier by a revenue code. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meets the medical review criteria for the ICU tier and has an ICU revenue code at the ICU tiered per diem rate. The Administration may classify any AHCCCS inpatient hospital days on the claim without an ICU revenue code, as surgery, psychiatric, or routine tiers.
      - iv. Surgery. The Administration shall identify the Surgery Tier by a revenue code and a valid surgical procedure code that is not on the AHCCCS excluded surgical procedure list. The excluded surgical procedure list identifies minor procedures such as sutures that do not require the same hospital resources as other procedures. The Administration shall only split a surgery tier with an ICU tier. AHCCCS shall pay at the surgery tier rate only when the surgery occurs on a date during which the member is eligible.
      - v. Psychiatric. The Administration shall identify the Psychiatric Tier by either a psychiatric revenue code and a psychiatric diagnosis or any routine revenue code if all diagnosis codes on the claim are psychiatric. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the psychiatric tier with any tier other than the ICU tier.
      - vi. Nursery. The Administration shall identify the Nursery Tier by a revenue code. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the nursery tier with any tier other than the NICU tier.
      - vii. Routine. The Administration shall identify the Routine Tier by revenue codes. The routine tier includes AHCCCS inpatient hospital days of care that are not classified in another tier or paid under any other provision of this Section. The Administration shall not split the routine tier with any tier other than the ICU tier.
  4. Annual update. The Administration shall annually update the inpatient hospital tiered per diem rates through September 30, 2011.
  5. New hospitals. For rates effective on and after October 1, 1998, the Administration shall pay new hospitals the statewide average rate for each tier, as appropriate. The Administration shall update new hospital tiered per diem rates through September 30, 2011.
  6. Outliers. The Administration shall reimburse hospitals for AHCCCS inpatient hospital days of care identified as outliers under this Section by multiplying the covered charges on a claim by the Medicare Urban or Rural Cost-to-Charge Ratio. The Urban cost-to-charge ratio will be used for hospitals located in a county of 500,000 residents or more. The Rural cost-to-charge ratio will be used for hospitals located in a county of fewer than 500,000 residents.

- a. Outlier criteria. For rates effective on and after October 1, 1998, the Administration set the statewide outlier cost threshold for each tier at the greater of three standard deviations from the statewide mean operating cost per day within the tier, or two standard deviations from the statewide mean operating cost per day across all the tiers. If the covered costs per day on a claim exceed the urban or rural cost threshold for a tier, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the applicable Medicare Urban or Rural CCR. The resulting amount will be the outlier payment. If there are two tiers on a claim, the Administration shall determine whether the claim is an outlier by using a weighted threshold for the two tiers. The weighted threshold is calculated by multiplying each tier rate by the number of AHCCCS inpatient hospital days of care for that tier and dividing the product by the total tier days for that hospital. Routine maternity stays shall be excluded from outlier reimbursement. A routine maternity is any one-day stay with a delivery of one or two babies. A routine maternity stay will be paid at tier.
- b. Update. The CCR is updated annually by the Administration for dates of service beginning October 1, using the most current Medicare cost-to-charge ratios published or placed on display by CMS by August 31 of that year. The Administration shall update the outlier cost thresholds for each hospital through September 30, 2011 as described under A.R.S. § 36-2903.01. For inpatient hospital admissions with begin dates of service on and after October 1, 2011, AHCCCS will increase the outlier cost thresholds by 5% of the thresholds that were effective on September 30, 2011.
- c. Medicare Cost-to-Charge Ratio Phase-In. AHCCCS shall phase in the use of the Medicare Urban or Rural Cost-to-Charge Ratios for outlier determination, calculation and payment. The three-year phase-in does not apply to out-of-state or new hospitals.
  - i. Medicare Cost-to-Charge Ratio Phase-In outlier determination and threshold calculation. For outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. For outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. The adjusted hospital specific inpatient cost-to-charge ratios shall be used for all calculations using the Medicare Urban or Rural Cost-to-Charge Ratios, including outlier determination, and threshold calculation.
  - ii. Medicare Cost-to-Charge Ratio Phase-In calculation for payment. For payment of outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio. For payment of outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio.
  - iii. Medicare Cost-to-Charge Ratio for outlier determination, threshold calculation, and payment. For outlier claims with dates of service on or after October 1, 2009, the full Medicare Urban or Rural Cost-to-Charge Ratios shall be utilized for all outlier calculations.
- d. Cost-to-Charge Ratio used for qualification and payment of outlier claims.
  - i. For qualification and payment of outlier claims with begin dates of service on or after April 1, 2011 through September 30, 2011, the CCR will be equal to 95% of the ratios in effect on October 1, 2010.
  - ii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011, the CCR will be equal to 90.25% of the most recent published Urban or Rural Medicare CCR as described in subsection (6)(b).
  - iii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011 through September 30, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after April 1, 2011 by an additional percentage equal to the total percent increase reported on the charge master.
  - iv. Subject to approval by CMS, for qualification and payment of outlier claims with begin dates of service on or after October 1, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after June 1, 2012 by an additional percentage equal to the total percent increase reported on the charge master.
7. Transplants. The Administration shall reimburse hospitals for an AHCCCS inpatient stay in which a covered transplant as described in R9-22-206 is performed through the terms of the relevant contract. As described in R9-22-716, if the Administration and a hospital that performs transplant surgery on an eligible person do not have a contract for the transplant surgery, the Administration shall not reimburse the hospital more than what would have been paid to the contracted hospital for that same surgery.
8. Ownership change. The Administration shall not change any of the components of a hospital's tiered per diem rates upon an ownership change.

9. Psychiatric hospitals. The Administration shall pay free-standing psychiatric hospitals an all-inclusive per diem rate based on the contracted rates used by the Department of Health Services.
10. Specialty facilities. The Administration may negotiate, at any time, reimbursement rates for inpatient specialty facilities or inpatient hospital services not otherwise addressed in this Section as provided by A.R.S. § 36-2903.01. For purposes of this subsection, “specialty facility” means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.
11. Outliers for new hospitals. Outliers for new hospitals will be calculated using the Medicare Urban or Rural Cost-to-Charge Ratio times covered charges. If the resulting cost is equal to or above the cost threshold, the claim will be paid at the Medicare Urban or Rural Cost-to-Charge ratio.
12. Reductions to tiered per diem payment for inpatient hospital services. Inpatient hospital admissions with begin dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the tiered per diem rates in effect on September 30, 2011.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3).

#### R9-22-712.02. Reserved

#### R9-22-712.03. Reserved

#### R9-22-712.04. Reserved

#### R9-22-712.05. Graduate Medical Education Fund Allocation

- A. Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § 36-2903.01(H)(9)(a).
  - B. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).
    1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
      - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
      - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
      - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
    2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration
      - a. to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c);
      - b. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § 36-2903.01(H)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and
      - c. All filled resident positions in approved programs other than GME programs described in A.R.S. § 36-2903.01(H)(9)(a) that were established before July 1, 2006.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The program name and number assigned by the accrediting organization;
      - ii. The original date of accreditation;
      - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
      - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
      - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
    - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:
      - i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently completed Medicare cost reporting years as filed with the fiscal intermediary;
      - ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
      - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.
  4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:
    - a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).

- b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
  - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
  - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
- c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration's inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
  - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
  - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program's sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution's affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.
- d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per resident conversion factor shall be determined as follows:
  - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
  - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
  - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
  - a. The allocated amounts shall be distributed in the following order of priority:
    - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § 36-2903.01(H)(9)(a) for the direct costs of programs established before July 1, 2006;
    - ii. To eligible hospitals that receive funding in accordance with A.R.S. § 36-2903.01(H)(9)(a) for the direct costs of programs established before July 1, 2006;
  - b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
  - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.
- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (C)(3).
  1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. All filled resident positions in approved programs established on or after July 1, 2006; and
    - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
  3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);
      - ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
      - iii. For programs described under subsection (C)(2)(b), the number of residents expected to

- be enrolled as a result of the most recently completed annual resident match.
- b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
    - a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
    - b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
    - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
    - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona Medicaid utilization in accordance with subsection (B)(4)(c).
    - e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
  5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).
- D.** Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:
    - a. It is a hospital in Arizona that is the sponsoring institution of one or more of the GME programs in Arizona or the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;
    - b. It incurs indirect program costs for the training of residents in the GME programs;
    - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):
    - a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule;
    - b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.
  3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);
      - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
      - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
    - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
  4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
    - a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
    - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
      - i. Calculate each hospital's Medicaid share by dividing the AHCCCS inpatient hospital days of care by the total inpatient hospital days from the Medicare Cost Report. For this purpose, the Administration shall use the information

- described by subsection (B)(4)(c) for adjusting allocated residents for Arizona Medicaid utilization.
- ii. Calculate each hospital's Medicare share by dividing the Medicare inpatient days on the Medicare Cost Report by the total inpatient hospital days on the Medicare Cost Report.
  - iii. Divide the Medicaid share by the Medicare share and multiply the resulting ratio by the indirect medical education payment calculated on the Medicare Cost Report.
  - iv. Total the results for all hospitals, divide the result by the total allocated residents determined under subsection (B)(4)(b)(i) for these hospitals, and divide that result by 12.
5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (D)(4) to the program's sponsoring hospital or the program's base hospital if the sponsoring institution is not a hospital, up to but not exceeding:
    - a. The amount calculated for the hospital at subsection (D)(4)(b)(iii), or
    - b. The median of all amounts calculated at subsection (D)(4)(b)(iii) if no amount was calculated for the hospital.
- E.** Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
- F.** The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). Funds transferred and available under this subsection shall be distributed in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons.
- Historical Note**
- New Section made by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4).
- R9-22-712.06. Reserved**
- R9-22-712.07. Rural Hospital Inpatient Fund Allocation**
- A.** For purposes of this Section, the following words and phrases have the following meanings unless the context specifically requires another meaning:
1. "Calculated inpatient costs" means the sum of inpatient covered charges multiplied by the Milliman study's implied cost-to-charge ratio of .8959.
  2. "Claims paid amount" means the sum of all claims paid by the Administration and contractors, as reported by the contractor to the Administration, to a rural hospital for covered inpatient services rendered during the previous state fiscal year.
  3. "Fund" means any state funds appropriated by the Legislature for the purposes set forth in A.R.S. § 36-2905.02 and any federal funds that are available for matching the state funds.
  4. "Inpatient covered charges" means the sum of all covered charges billed by a hospital to the Administration or contractors, as reported by the contractors to the Administration, for inpatient services rendered during the previous state fiscal year.
  5. "Milliman study" means the report issued by Milliman USA on March 11, 2004, to the Arizona Hospital and Healthcare Association that updated a portion of a cost study entitled "Evaluation of the AHCCCS Inpatient Hospital Reimbursement System" prepared by Milliman USA for AHCCCS on November 15, 2002. A copy of each report is on file with the Administration.
  6. "Rural hospital" means a health care institution that is licensed as a hospital by the Arizona Department of Health Services for the previous state fiscal year and is not a hospital operated by IHS or a special hospital that limits the care provided to rehabilitation service and:
    - a. Has 100 or fewer beds and is located in a county with a population of less than 500,000 persons, or
    - b. Is designated as a critical access hospital for the majority of the previous state fiscal year.
  7. "Total inpatient payments" means the sum of:
    - a. The claims paid amount,
    - b. Any disproportionate share hospital payments for the previous fiscal year, and
    - c. The inpatient component of any Critical Access Hospital payments made to the hospital for the previous state fiscal year.
- B.** Each February, the Administration shall allocate the Fund to the following three pools for the fiscal year:
1. Rural hospitals with fewer than 26 PPS beds and all Critical Access Hospitals, regardless of the number of beds in the Critical Access Hospital;
  2. Rural hospitals other than Critical Access Hospitals with 26 to 75 PPS beds; and
  3. Rural hospitals other than Critical Access Hospitals with 76 to 100 PPS beds.
- C.** The Administration shall allocate the Fund to each pool according to the ratio of total inpatient payments to all hospitals assigned to the pool to total inpatient payments to all rural hospitals.
- D.** The Administration shall determine each hospital's claims paid amount and allocate the funds in each pool to each hospital in the pool based on the ratio of each hospital's claims paid amount to the sum of the claims paid amount for all hospitals assigned to the pool.
- E.** The Administration shall not make a Fund payment to a hospital that will result in the hospital's total inpatient payments plus that hospital's Fund payment being greater than that hospital's calculated inpatient costs.
1. If a hospital's total inpatient payments plus the hospital's Fund payment would be greater than the hospital's calculated inpatient costs, the Administration shall make a Fund payment to the hospital equal to the difference

between the hospital's calculated inpatient costs and the hospital's total inpatient payments.

2. The Administration shall reallocate any portion of a hospital's Fund allocation that is not paid to the hospital due to the reason in subsection (E)(1) to the other eligible hospitals in the pool based upon the ratio of the claims paid amount for each hospital remaining in the pool to the sum of the claims paid amount for each hospital remaining in the pool.

- F. If funds remain in a pool after allocations to each hospital in the pool under subsections (D) and (E), the Administration

shall reallocate the remaining funds to the other pools based upon the ratio of each pool's original allocation of the Fund as determined under subsection (C) to the sum of the remaining pools' original Fund allocations under subsection (C). The Administration shall allocate remaining funds to the hospitals in the remaining pools under subsection (D) and (E). See Exhibit 1 for an example.

- G. Subject to CMS approval of the method and distribution of the Fund, the administration or its contractors will distribute the Fund as a lump sum allocation to the rural hospitals in either one or two installments by the end of each state fiscal year.

#### Exhibit 1. Pool Example

Pool A receives \$2,000,000. Pool B receives \$7,000,000. Pool C receives \$3,000,000.

If all of the funds in Pool B are paid to eligible hospitals and there is \$1,000,000 remaining, the remaining funds would be allocated to Pool A and Pool C based on the ratio of each pool's original allocation (original allocations of \$2,000,000 and \$3,000,000) to the total of their original allocation (\$2,000,000 + \$3,000,000 = \$5,000,000).

Pool A would receive 2/5 of the remaining funds (\$400,000) and Pool C would receive 3/5 of the remaining funds (\$600,000).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2).

#### R9-22-712.08. Reserved

#### R9-22-712.09. Hierarchy for Tier Assignment

TIER	IDENTIFICATION CRITERIA	ALLOWED SPLITS
MATERNITY	A primary diagnosis defined as maternity 640.xx - 643.xx, 644.2x - 676.xx, v22.xx - v24.xx or v27.xx.	None
NICU	Revenue Code of 174 and the provider has a Level II or Level III NICU.	Nursery
ICU	Revenue Codes of 200-204, 207-212, or 219.	Surgery Psychiatric Routine
SURGERY	Surgery is identified by a revenue code of 36x. To qualify in this tier, there must be a valid surgical procedure code that is not on the excluded procedure list.	ICU
PSYCHIATRIC	Psychiatric Revenue Codes of 114, 124, 134, 144, or 154 AND primary Psychiatric Diagnosis = 290.xx - 316.xx. If a routine revenue code is present and all diagnoses codes on the claim are equal to 290.xx - 316.xx, classify as a psychiatric claim.	ICU
NURSERY	Revenue Code of 17x, not equal to 174.	NICU
ROUTINE	Revenue Codes of 100 - 101, 110-113, 116 - 123, 126 - 133, 136 - 143, 146 - 153, 156 - 159, 16x, 206, 213, or 214.	ICU

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3).

#### R9-22-712.10. Outpatient Hospital Reimbursement: General

- A. Effective rule. The outpatient hospital reimbursement rules apply to dates of service beginning July 1, 2005, subject to Laws 2004, Ch. 279, § 19.
- B. Basis For Payment. Except as provided under R9-22-712.30, AHCCCS shall pay for designated outpatient procedures provided to AHCCCS members according to the AHCCCS Outpatient Capped Fee-For-Service Schedule as defined in R9-22-712.20.
- C. Data. AHCCCS shall use Medicare Cost Report and adjudicated claim and encounter data from non-IHS acute care hospitals located in the state of Arizona to develop fees for the AHCCCS Outpatient Capped Fee-For-Service Schedule.
- D. Hospital Services Subject To Fees. AHCCCS shall reimburse services, in the following outpatient hospital categories under the AHCCCS Outpatient Capped Fee-For-Service Schedule:
  1. Surgery,
  2. Emergency Department,
  3. Laboratory,
  4. Radiology,
  5. Clinic, and
  6. Other services.
- E. Reimbursement. AHCCCS shall reimburse outpatient hospital services by procedure codes, in proper combination with revenue codes, as prescribed by AHCCCS.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).



**R9-22-712.11. Reserved****R9-22-712.12. Reserved****R9-22-712.13. Reserved****R9-22-712.14. Reserved****R9-22-712.15. Outpatient Hospital Reimbursement: Affected Hospitals**

Except as provided in R9-22-712(G), the AHCCCS Outpatient Capped Fee-For-Service Schedule shall apply to AHCCCS payments for outpatient services in all non-IHS acute hospitals.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

**R9-22-712.16. Reserved****R9-22-712.17. Reserved****R9-22-712.18. Reserved****R9-22-712.19. Reserved****R9-22-712.20. Outpatient Hospital Reimbursement: Methodology for the AHCCCS Outpatient Capped Fee-For-Service Schedule**

A. To establish the AHCCCS Outpatient Capped Fee-for-service Schedule for all claims with a begin date of service on or before September 30, 2011, AHCCCS shall:

1. Define the dataset of claims and encounters that shall be used to establish the AHCCCS Outpatient Capped Fee-for-service Schedule.
2. Identify all the claims and encounters from non-IHS acute hospitals located in Arizona for services to be paid under the AHCCCS Outpatient Capped Fee-for-service Schedule.
3. Match the revenue code on each detail of each claim and encounter to the ancillary line item CCR as reported on hospital-specific mapping documents and hospital-specific Medicare Cost Report for those hospitals that have submitted Medicare Cost Reports FYE 2002.
4. Multiply the line item CCR from subsection (A)(3) by the covered billed charge for that revenue code to establish the cost for the service.
5. Inflate the cost for the service from subsection (A)(4) using Global Insight Health-care Cost Review inflation factors from date of service month to the midpoint of the rate year in which the fees are initially effective.
6. Include associated costs under R9-22-712.25 to calculate the rates for emergency room and surgery services.
7. Combine data from all Arizona hospitals identified in subsection (A)(3) for each procedure code to establish the statewide median cost for each procedure.
8. Group procedure codes according to the Ambulatory Payment Classification (APC) System groups as listed in 69 FR 65682, November 15, 2004, and establish a statewide median cost for each APC. Multiply each statewide median APC cost by 116 percent to establish the AHCCCS-based fee for each procedure in that specific APC group. AHCCCS shall assign each procedure in the group the same fee.
9. For those procedure codes that are not grouped into any APC, establish a procedure-specific fee using either:
  - a. The AHCCCS Non-hospital Capped Fee-for-service Fee Schedule,
  - b. 116 percent of the procedure-specific median cost AHCCCS-based fee, or

c. The Medicare Clinical Laboratory Fee Schedule for laboratory services.

10. Compare the AHCCCS-based fee established in subsections (A)(8) and (9) against the comparable Medicare fee established for the Medicare APC group as listed in the 69 FR 65682, November 15, 2004. The fee for each procedure shall be the greater of the AHCCCS-based fee or the Medicare fee but no more than 150 percent of the AHCCCS-based fee; however, for those laboratory services for which a limit is established in the Medicare Clinical Laboratory Fee Schedule, the fee shall not exceed that limit.
  11. Assign the 2005 Medicare fee in the AHCCCS Outpatient Capped Fee-for-service Schedule for those procedures for which there are fewer than 20 occurrences of the procedure code in the dataset, either independently, or, if applicable, for all procedure codes within an APC Group.
- B. For all claims with a begin date of service on or after October 1, 2011, the AHCCCS Outpatient Capped Fee-for-service Schedule shall be derived from the CMS Medicare Outpatient Prospective Payment System (OPPS) fee schedule modified by an Arizona conversion factor determined annually.
1. When clinic services are billed using 51X revenue codes, the reimbursement to the hospital is the difference between the facility and non-facility rates payable to the practitioner for the procedures listed in the Administration's Capped Fee-for-service Schedule under R9-22-710.
  2. Observation services, when not billed in conjunction with a service for which a single payment is made under R9-22-712.25, are reimbursed at an hourly rate published in the Outpatient Capped Fee-for-service Schedule. This hourly rate includes reimbursement for associated services.
- C. The AHCCCS Outpatient Capped Fee-for-service Schedule including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3).

**R9-22-712.21. Reserved****R9-22-712.22. Reserved****R9-22-712.23. Reserved****R9-22-712.24. Reserved****R9-22-712.25. Outpatient Hospital Fee Schedule Calculations: Associated Service Costs**

- A. AHCCCS shall include the costs of associated services, as defined by revenue codes and procedure codes, when determining the specific fees for the outpatient hospital procedures for emergency department and surgery services.
- B. Payment made under subsection (A) or R9-22-712.20(B)(2) is inclusive of all services on the claim regardless of whether the services are provided on one or more days.
- C. A complete listing of the revenue codes and procedure codes for associated costs included in the payment for emergency and surgery services including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3).

**R9-22-712.26. Reserved****R9-22-712.27. Reserved****R9-22-712.28. Reserved****R9-22-712.29. Reserved****R9-22-712.30. Outpatient Hospital Reimbursement: Payment for a Service Not Listed in the AHCCCS Outpatient Capped Fee-for-service Schedule**

- A. AHCCCS shall calculate a statewide CCR for a service where a specific fee cannot be determined under R9-22-712.20.
- B. For claims with a begin date of service on or before September 30, 2011, the statewide CCR shall be calculated based on the costs and covered charges associated with a service under subsection (A) for all Arizona hospitals, using the method specified in R9-22-712.20(A)(3).
- C. For all claims with a begin date of service on or after October 1, 2011, the statewide CCR calculation shall equal either the CMS Medicare Outpatient Urban Cost-to-charge Ratio or the CMS Medicare Outpatient Rural Cost-to-charge Ratio published by CMS for the state of Arizona. AHCCCS shall use the urban cost-to-charge ratio for hospitals located in a county of 500,000 residents or more and for out-of-state hospitals. AHCCCS shall use the rural cost-to-charge ratio for hospitals located in a county of fewer than 500,000 residents. On October 1st of each year, AHCCCS shall adjust urban and rural CCRs to the CCRs as published by CMS in the *Federal Register* on or before August 1st of that year.
- D. To determine the payment amount for procedures where a specific fee is not determined under R9-22-712.20, the statewide CCR is multiplied by the covered charges.
- E. Reductions to payments for outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule. Outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rate published by CMS pursuant to subsection (C) of this Section.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3).

**R9-22-712.31. Reserved****R9-22-712.32. Reserved****R9-22-712.33. Reserved****R9-22-712.34. Reserved****R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees**

- A. For all claims with a begin date of service on or before September 30, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule established under R9-22-712.20 (except for laboratory services and out-of-state hospital services) for the following hospitals submitting any claims:
  1. By 48 percent for public hospitals on July 1, 2005, and hospitals that were public anytime during the calendar year 2004;

2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  4. By 115 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the criteria during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  5. By 113 percent for a Freestanding Children's Hospital with at least 110 pediatric beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective; or
  6. By 14 percent for a University Affiliated Hospital which is a hospital that has a majority of the members of its board of directors appointed by the Board of Regents during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective.
- B. For all claims with a begin date of service on or after October 1, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services) for the following hospitals. A hospital shall receive an increase from only one of the following categories:
    1. By 73 percent for public hospitals;
    2. By 31 percent for hospitals in counties other than Maricopa and Pima with more than 100 licensed beds as of October 1 of that contract year;
    3. By 37 percent for hospitals in counties other than Maricopa and Pima with 100 or fewer licensed beds as of October 1 of that contract year;
    4. By 100 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the critical access criteria;
    5. By 78 percent for a Freestanding Children's Hospital with at least 110 pediatric beds as of October 1 of that contract year; or
    6. By 41 percent for a University Affiliated Hospital, which is a hospital that has a majority of the members of its board of directors appointed by the Arizona Board of Regents.
  - C. In addition to subsections (A) and (B), an Arizona Level 1 trauma center as defined by R9-22-2101 shall receive a 50 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services and out-of-state hospital services) for Level 2 and 3 emergency department procedures.
  - D. Hospitals with greater than 100 pediatric beds not receiving an increase under subsection (B) shall receive an 18 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services).
  - E. Fee adjustments made under subsection (A), (B), (C) and (D) are on file with AHCCCS and current adjustments are posted on AHCCCS' web site.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2).

Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3).

**R9-22-712.36. Reserved**

**R9-22-712.37. Reserved**

**R9-22-712.38. Reserved**

**R9-22-712.39. Reserved**

**R9-22-712.40. Outpatient Hospital Reimbursement: Annual and Periodic Update**

- A. Procedure codes. When procedure codes are issued by CMS and added to the Current Procedural Terminology published by the American Medical Association, AHCCCS shall add to the Outpatient Capped Fee-for-service Schedule the new procedure codes for covered outpatient services and shall either assign the default CCR under R9-22-712.40(F)(2), the Medicare rate, or calculate an appropriate fee.
- B. APC changes. AHCCCS may reassign procedure codes to new or different APC groups when APC groups are revised by CMS. AHCCCS may reassign procedure codes to a different APC group than Medicare. If AHCCCS determines that utilization of a procedure code within the Medicare program is substantially different from utilization of the procedure code in the AHCCCS program, AHCCCS may choose not to assign the procedure code to any APC group. For procedure codes not grouped into an APC by Medicare, AHCCCS may assign the code to an APC group when AHCCCS determines that the cost and resources associated with the non-assigned code are substantially similar to those in the APC group.
- C. Annual update for Outpatient Hospital Fee Schedule. Beginning October 1, 2006, through September 30, 2011, AHCCCS shall adjust outpatient fee schedule rates:
  1. Annually by multiplying the rates effective during the prior year by the Global Insight Prospective Hospital Market Basket Inflation Index; or
  2. In a particular year the director may substitute the increases in subsection (C)(1) by calculating the dollar value associated with the inflation index in subsection (C)(1), and applying the dollar value to adjust rates at varying levels.
- D. Reductions to the Outpatient Capped Fee-For-Service Schedule. Claims paid using the Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rates in effect September 30, 2011, subject to the annual adjustments to procedure codes and APCs under this Section.
- E. Rebase. AHCCCS shall rebase the outpatient fees every five years.
- F. Statewide CCR:
  1. For begin dates of service on or before September 30, 2011, the statewide CCR calculated in R9-22-712.30 shall be recalculated at the time of rebasing. When rebasing, AHCCCS may recalculate the statewide CCR based on the costs and charges for services excluded from the outpatient hospital fee schedule.
  2. For begin dates of service on or after October 1, 2011, the statewide CCR shall be set under R9-22-712.30(C).

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 17 A.A.R. 1460, effective

October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3).

**R9-22-712.41. Reserved**

**R9-22-712.42. Reserved**

**R9-22-712.43. Reserved**

**R9-22-712.44. Reserved**

**R9-22-712.45. Outpatient Hospital Reimbursement: Outpatient Payment Restrictions**

- A. AHCCCS shall not reimburse hospitals for emergency room treatment, observation hours, or other outpatient hospital services performed on an outpatient basis if the member is admitted as an inpatient to the same hospital directly from the emergency room, observation, or other outpatient department.
- B. AHCCCS shall include payment for the emergency room, observation, and other outpatient hospital services provided to the member before the hospital admission in the AHCCCS Inpatient Tiered Per Diem Capped Fee-For-Service Schedule under Article 7 of this Chapter.
- C. Same day admit and discharge claims that qualify for either the maternity or nursery tiers shall be paid based on the lesser of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

**R9-22-712.46. Reserved**

**R9-22-712.47. Reserved**

**R9-22-712.48. Reserved**

**R9-22-712.49. Reserved**

**R9-22-712.50. Outpatient Hospital Reimbursement: Billing**

To receive appropriate reimbursement, hospitals shall:

1. Bill outpatient hospital services on the CMS approved Uniform Billing Form or in electronic format using the appropriate HIPAA transaction.
2. Follow the UB Manual Guidelines, as published by the National Uniform Billing Committee, and use the appropriate revenue code and procedure code combination as prescribed by AHCCCS and on file and online with AHCCCS.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

**R9-22-713. Overpayment and Recovery of Indebtedness**

- A. If a contractor or a subcontracting provider receives an overpayment from the Administration or otherwise becomes indebted to the Administration, the contractor or subcontracting provider shall immediately remit the amount of the indebtedness or overpayment to the Administration for deposit in the AHCCCS fund.
- B. If the funds described in subsection (A) are not remitted, the Administration may recover the funds paid by the Administration to a contractor or subcontracting provider through:
  1. A repayment agreement executed with the Administration;
  2. Withholding or offsetting against current or future payments to be paid to the contractor or subcontracting provider; or

3. Enforcement of, or collection against, the performance bond, financial reserve, or other financial security under A.R.S. § 36-2903.

#### Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Former Section R9-22-713 repealed, new Section R9-22-713 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714, former Section R9-22-709 renumbered and amended as Section R9-22-713 effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

#### R9-22-714. Payments to Providers

- A. Provider agreement. The Administration or a contractor shall not reimburse a covered service provided to a member unless the provider has signed a provider agreement with the Administration that establishes the terms and conditions of participation and payment under A.R.S. § 36-2904.
- B. Provider reimbursement. The Administration or a contractor shall reimburse a provider for a service furnished to a member only if:
  1. The provider personally furnishes the service to a specific member. For purposes of this Section, services personally furnished by a provider include:
    - a. Services provided by medical residents or dental students in a teaching environment; or
    - b. Services provided by a licensed or certified assistant under the general supervision of a licensed practitioner in accordance with 4 A.A.C. 24, 9 A.A.C. 16, 4 A.A.C. 43, or 4 A.A.C. 45;
  2. The provider verifies that individuals who have provided services described in subsection (B)(1) have not been placed on the List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Services Office of the Inspector General (OIG), located at OIG's web site;
  3. The service contributes directly to the diagnosis or treatment of the member; and
  4. The service ordinarily requires performance by the type of provider seeking reimbursement.
- C. The Administration or a contractor may make a payment for covered services only:
  1. To the provider;
  2. To anyone specified in a reassignment from the provider to a government agency or reassignment by a court order;
  3. To a business agent, if the agent's compensation for the service is:
    - a. Related to the cost of processing the billing;
    - b. Not related on a percentage or other basis to the amount that is billed or collected; and
    - c. Not dependent upon collection of the payment;
  4. To the employer of the provider, if the provider is required as a condition of employment to turn over the provider's fees to the employer;
  5. To the inpatient facility in which the service is provided, if the provider has a contract under which the inpatient facility submits the claim; or
  6. To a foundation, plan, or similar organization operating an organized health care delivery system, if the provider

has a contract under which the foundation, plan or similar organization submits the claim.

- D. The Administration or a contractor shall not make a payment to or through a factor, either directly or by power of attorney, for a covered service furnished to a member by a provider.
- E. Reimbursement for a pathology service. Unless otherwise specified in a contract, the Administration or a contractor shall reimburse a pathologist for a pathology service furnished to a member only if the other requirements in this Section are met and the service is:
  1. A surgical pathology service;
  2. A specific cytopathology, hematology, or blood banking pathology service that requires performance by a physician and is listed in the capped fee-for-service schedule;
  3. A clinical consultation service that:
    - a. Is requested by the member's attending physician or primary care physician,
    - b. Is related to a test result that is outside the clinically significant normal or expected range in view of the condition of the member,
    - c. Results in a written narrative report included in the member's medical record,
    - d. Requires the exercise of medical judgment by the consultant pathologist, and
    - e. Is listed in the capped fee-for-service schedule; or
  4. A clinical laboratory interpretative service that:
    - a. Is requested by the member's attending physician or primary care physician,
    - b. Results in a written narrative report included in the member's medical record,
    - c. Requires the exercise of medical judgment by the consultant pathologist, and
    - d. Is listed in the capped fee-for-service schedule.

#### Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule is similar to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714 effective October 1, 1985 (Supp. 85-5). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 9 A.A.R. 3800, effective October 4, 2003 (Supp. 03-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

*Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.*

#### R9-22-715. Hospital Rate Negotiations

- A. A contractor that negotiates with hospitals for inpatient or outpatient services shall reimburse hospitals for services rendered on or after March 1, 1993, as described in A.R.S. § 36-2903.01 and this Article, or at the negotiated rate that, in the aggregate, does not exceed reimbursement levels that would have been paid under A.R.S. § 36-2903.01, and this Article. This subsection does not apply to urban hospitals described under R9-22-718.

1. Contractors may engage in rate negotiations with a hospital at any time during the contract period.
  2. Within seven days before the effective date of a contract, a contractor shall submit copies of the contractor's negotiated rate agreements with hospitals, including all rates, terms, and conditions, to the Administration for approval.
- B.** The Administration may negotiate or contract with a hospital on behalf of a contractor for discounted hospital rates and may require that the negotiated discounted rates be included in a subcontract between the contractor and hospital.

#### Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). New Section R9-22-715 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3).

*Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.*

#### R9-22-716. Repealed

#### Historical Note

Adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

#### R9-22-717. Repealed

#### Historical Note

Adopted effective July 30, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3).

*Editor's Note: The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council. The agency was required to submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and was required to hold a public hearing.*

#### R9-22-718. Urban Hospital Inpatient Reimbursement Program

- A.** Definitions. The following definitions apply to this Section:
1. "Noncontracted Hospital" means an urban hospital which does not have a contract under this Section with an urban contractor in the same county.

2. "Rural Contractor" means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29 that does not provide services to members residing in either Maricopa or Pima County.
3. "Urban Contractor" means a contractor or program contractor as defined in A.R.S. Title 36, Chapter 29, that provides services to members residing in Maricopa or Pima County and may also provide services to members who reside in other counties. An urban contractor does not include BHS, CRS, CMDP, HCG or a Tribal government.
4. "Rural Hospital" means a hospital, as defined in Article 1, that is physically located in Arizona but in a county other than Maricopa and Pima County.
5. "Urban Hospital" means a hospital, as defined in Article 1, that is physically located in Maricopa or Pima County.

**B.** General Provisions.

1. This Section applies to an urban hospital who receives payment for inpatient hospital services under A.R.S. §§ 36-2903.01 and 36-2904.
2. AHCCCS shall operate an inpatient hospital reimbursement program under A.R.S. § 36-2905.01 and this Section.
3. Residency of the member receiving inpatient AHCCCS covered services is not a factor in determining which hospitals are required to contract with which contractors.
4. An urban contractor shall enter into a contract for reimbursement for inpatient AHCCCS covered services with one or more urban hospitals located in the same county as the urban contractor.
5. A noncontracted urban hospital shall be reimbursed for inpatient services by an urban contractor at 95% of the amount calculated as defined in A.R.S. § 36-2903.01 and this Article, unless otherwise negotiated by both parties.

- C.** Contract Begin Date. A contract under this Article shall cover inpatient acute care hospital services for members with hospital admissions on and after October 1, 2003.

- D.** Outpatient urban hospital services. Outpatient urban hospital services, including observation days and emergency room treatments that do not result in an admission, shall be reimbursed either through an urban hospital contract negotiated between a contractor and an urban hospital, or the reimbursement rates set forth in A.R.S. § 36-2903.01. Outpatient services in an urban hospital that result in an admission shall be paid as inpatient services in accordance with this Section.

**E.** Urban Hospital Contract.

1. Provisions of an urban hospital contracts. The urban hospital contract shall contain but is not limited to the following provisions:
  - a. Required provisions as described in the Request for Proposals (RFP);
  - b. Dispute settlement procedures. If the AHCCCS Grievance System prescribed in A.R.S. § 36-2903.01(B) and rule is not used, then arbitration shall be used;
  - c. Arbitration procedure. If arbitration is used, the urban hospital contract shall identify:
    - i. The parties' agreement on arbitrating claims arising from the contract,
    - ii. Whether arbitration is nonbinding or binding,
    - iii. Timeliness of arbitration,
    - iv. What contract provisions may be appealed,
    - v. What rules will govern arbitrations,
    - vi. The number of arbitrators that shall be used,
    - vii. How arbitrators shall be selected, and
    - viii. How arbitrators shall be compensated.
  - d. Timeliness of claims submission and payment;

- e. Prior authorization;
  - f. Concurrent review;
  - g. Electronic submission of claims;
  - h. Claims review criteria;
  - i. Payment of discounts or penalties such as quick-pay and slow-pay provisions;
  - j. Payment of outliers;
  - k. Claim documentation specifications under A.R.S. § 36-2904.
  - l. Treatment and payment of emergency room services; and
  - m. Provisions for rate changes and adjustments.
2. AHCCCS review and approval of urban hospital contracts:
- a. AHCCCS may review, approve, or disapprove the hospital contract rates, terms, conditions, and amendments to the contract;
  - b. An urban contractor shall submit urban hospital contracts and amendments as specified in the RFPs for the contract year beginning October 1, 2003, or as specified in the RFP for a new urban hospital contract negotiated after October 1, 2003;
  - c. The AHCCCS evaluation of each urban hospital contract shall include but not be limited to the following areas:
    - i. Availability and accessibility of services to members,
    - ii. Related party interests,
    - iii. Inclusion of required terms pursuant to this Section, and
    - iv. Reasonableness of the rates.
3. Evaluation of urban contractor's use of a noncontracted hospital. AHCCCS shall evaluate the contractor's use of a contracted versus noncontracted hospital.
- F. Quick-Pay/Slow-Pay.** A payment made by urban contractor to a noncontracted hospital shall be subject to quick-pay discounts and slow-pay penalties under A.R.S. § 36-2904.

#### Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective January 29, 1997; pursuant to Laws 1996, Ch. 288, § 24 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 500, effective February 1, 2004 (Supp. 04-1). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3).

#### **R9-22-719. Contractor Performance Measure Outcomes**

The Administration may retain a specified percentage of capitation reimbursement to distribute to contractors based on their performance measure outcomes under A.R.S. § 36-2904. The Administration shall notify contractors 60 days prior to a new contract year if this methodology is implemented. The Administration shall specify the details of the reimbursement methodology in contract.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

#### **R9-22-720. Reinsurance**

- A.** Reinsurance is a stop-loss program provided by the Administration to a contractor for partial reimbursement of the cost of covered services for a member with an acute medical condition when the cost of covered services exceeds a pre-determined deductible level amount within a contract year. The Administration self-insures the reinsurance program through a reduction to capitation rates. The reinsurance program also

includes a catastrophic reinsurance program for members diagnosed with specific medical conditions.

- B.** The Administration shall specify in contract guidelines for claims submission, processing, payment, and the types of care and services that are provided to a member whose care is covered by reinsurance.
- C.** When the Administration determines that a contractor does not follow the specified guidelines for care or services and the care or services could have been provided at a lower cost according to the guidelines, the Administration shall reimburse the contractor as if the care or services had been provided as specified in the guidelines.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

#### **ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R9-22-801 through R9-22-804 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).*

#### **R9-22-801. Repealed**

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-801 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted effective October 29, 1985 (Supp. 85-5). Amended subsections (C), (F), (H), (I), and (K) effective October 1, 1986 (Supp. 86-5). Change of heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (H) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section heading amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

#### **R9-22-802. Repealed**

#### Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-802 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 29, 1985 (Supp. 85-5). Amended subsections (A), (B), (C) and (D) effective October 14, 1988 (Supp. 88-4). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-802 repealed, new Section R9-22-802 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3).

- 3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

**R9-22-803. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-803 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-803 repealed, new Section R9-22-803 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-803 renumbered and amended as Section R9-22-804. Adopted effective January 31, 1986 (Supp. 86-1). Amended effective September 29, 1992 (Supp. 92-3). Former Section R9-22-803 repealed, new Section R9-22-803 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

**R9-22-804. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-804 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Former Section R9-22-804 repealed, former Section R9-22-803 renumbered and amended as Section R9-22-804 effective October 29, 1985 (Supp. 85-5). Amended effective October 14, 1988 (Supp. 88-4). Amended subsections (B) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-804 repealed, new Section R9-22-804 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

**Exhibit A. Repealed****Historical Note**

New Exhibit adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Exhibit repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

**R9-22-805. Repealed****Historical Note**

Former Section R9-22-805 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective January 31, 1986 (Supp. 86-1).

**ARTICLE 9. REPEALED****R9-22-901. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-901 adopted as an emergency adoption now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective

October 1, 1983 (Supp. 83-5). Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-902. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-902 renumbered and amended as Section R9-22-904, former Section R9-22-903 renumbered and amended as Section R9-22-902 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-902 repealed, new Section R9-22-902 adopted effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-903. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-903 renumbered and amended as Section R9-22-902, former Section R9-22-904 renumbered and amended as Section R9-22-903 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-903 repealed, new Section R9-22-903 adopted effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-904. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-904 renumbered and amended as Section R9-22-903, former Section R9-22-902 renumbered and amended as Section R9-22-904 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-905. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-905 renumbered without change as Section R9-22-908, former Section R9-22-907 renumbered and amended as Section R9-22-905 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-906. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-907. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-907 renumbered and amended as Section R9-22-905, former Section R9-22-908 renumbered and amended as Section R9-22-907 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-908. Repealed****Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-908 renumbered and amended as Section R9-22-907, former Section R9-22-905 renumbered without change as Section R9-22-908 effective October 1, 1986 (Supp. 86-5). Former R9-22-908 repealed effective May 30, 1989 (Supp. 89-2). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**R9-22-909. Repealed****Historical Note**

New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

**ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES****R9-22-1001. Definitions**

In addition to the definitions in A.R.S. §§ 36-2901, 36-2923 and 9 A.A.C. 22, Article 1, the following definitions apply to this Article:

“Cost avoid” means to deny a claim and return the claim to the provider for a determination of the amount of first- or third-party liability.

“First-party liability” means the obligation of any insurance plan or other coverage obtained directly or indirectly by a member that provides benefits directly to the member to pay all or part of the expenses for medical services incurred by AHCCCS or a member.

“Third-party” means a person, entity, or program that is, or may be, liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or member.

“Third-party liability” means any individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished to a member under a state plan.

**Historical Note**

Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). Amended subsections (E) through (H) effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E), and (F) effective December 22, 1987 (Supp. 87-4). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1002. General Provisions**

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law. Entities that pay before AHCCCS include but are not limited to:

1. Indian Health Services (IHS/638),
2. Title IV-E,
3. Arizona Early Intervention Program (AZEIP), and
4. Contract health.

**Historical Note**

Section R9-22-529 adopted effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5). Amended subsections (C) and (D) effective October 1, 1986 (Supp. 86-5). Amended effective December 22, 1987 (Supp. 87-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1003. Cost Avoidance**

A. The Administration’s reimbursement responsibility.

1. The Administration shall pay no more than the difference between the Capped Fee-For-Service schedule and the amount of the third-party liability, unless Medicare is the third-party.
2. If Medicare is the third-party that is liable, the Administration shall pay the Medicare copayment and deductible regardless of the Capped Fee-For-Service Schedule.

B. The Contractor’s reimbursement responsibility.



## Arizona Health Care Cost Containment System – Administration

1. If the contract between the contractor and the provider does not state otherwise, a contractor shall pay no more than the difference between the contracted rate and the amount of the third-party liability.
  2. If the provider does not have a contract with the contractor, a contractor shall pay no more than the difference between the Capped Fee-For-Service rate and the amount of the third-party liability.
- C.** The requirement to cost avoid applies to all AHCCCS-covered services under Article 2 of this Chapter, unless otherwise specified in this Section. The following parties shall take reasonable measures to identify potentially legally liable first- or third-party sources:
1. AHCCCS, the Administration, or a contractor;
  2. A provider;
  3. A noncontracting provider; and
  4. A member.
- D.** When the Administration or a contractor determines that a third party may be liable for services provided, the Administration or contractor shall pay the full amount of the claim according to the Capped-Fee-For-Service Schedule and then seek reimbursement, when:
1. The claim is for labor and delivery and postpartum care; or
  2. The liability is from an absent parent, and the claim is for prenatal care or EPSDT services.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3012, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1004. Member Participation**

A member shall cooperate in identifying potentially legally liable first- or third-parties and timely assist the Administration and a contractor, provider, or noncontracting provider in pursuing any first- or third-party who may be liable to pay for covered services.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1005. Collections**

- A.** Parties that notify AHCCCS. A provider or noncontracting provider shall cooperate with AHCCCS by identifying all potential sources of first- or third-party liability and notify AHCCCS of these sources.
- B.** Parties that pursue collection or reimbursement. AHCCCS, a provider, or noncontracting provider shall pursue collection or reimbursement from all potential sources of first- or third-party liability.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

**R9-22-1006. AHCCCS Monitoring Responsibilities**

AHCCCS shall monitor first- or third-party liability payments to a provider or noncontracting provider, which include but are not limited to payments by or for:

1. Private health insurance;
2. Employment-related disability and health insurance;
3. Long-term care insurance;
4. Other federal programs not excluded by statute from recovery;

5. Court ordered or non-court ordered medical support from an absent parent;
6. State worker's compensation;
7. Automobile insurance, including underinsured and uninsured motorists insurance;
8. Court judgment or settlement from a liability insurer including settlement proceeds placed in a trust;
9. First-party probate estate recovery;
10. Adoption-related payment; or
11. A tortfeasor.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

**R9-22-1007. Notification for Perfection, Recording, and Assignment of AHCCCS Liens**

- A.** Hospital requirements. A hospital providing medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall within 30 days after a member's discharge:
1. Notify AHCCCS via facsimile or mail under R9-22-1008, or
  2. Mail AHCCCS a copy of the lien the hospital proposes to record or has recorded under A.R.S. § 33-932.
- B.** Provider and noncontracting provider requirements. A provider or noncontracting provider, other than a hospital, rendering medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall notify AHCCCS via facsimile or mail under R9-22-1008 within 30 days after providing the service.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1008. Notification Information for Liens**

- A.** Except as provided in subsection (B), a hospital, provider, and noncontracting provider identified in R9-22-1007 shall provide the following information to AHCCCS in writing:
1. Name of the hospital, provider or noncontracting provider;
  2. Address of the hospital, provider or noncontracting provider;
  3. Name of member;
  4. Member's Social Security Number or AHCCCS identification number;
  5. Address of member;
  6. Date of member's admission or date service is provided;
  7. Amount estimated to be due for care of member;
  8. Date of discharge, if member has been discharged;
  9. Name of county in which injuries were sustained; and
  10. Name and address of all persons, firms, and corporations and their insurance carriers identified by the member or legal representative as being liable for damages.
- B.** If the date of discharge is not known at the time the information in subsection (A) is provided, a party identified in subsection (A) shall notify AHCCCS of the date of discharge within 30 days after the member has been discharged.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

**R9-22-1009. Notification of Health Insurance Information**

A provider or noncontracting provider shall notify AHCCCS, in writing, of the following health insurance information within 10 days of receipt of the health insurance information:

1. Name of member,
2. Member's Social Security Number or AHCCCS identification number,
3. Insurance carrier name,
4. Insurance carrier address,
5. Policy number or insurance holder's Social Security Number,
6. Policy begin and end dates, and
7. Insurance holder's name.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS****R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions**

- A. Scope. This Article applies to prohibited acts as described under A.R.S. § 36-2918(A), and submissions of encounters to the Administration. The Administration considers a person who aids and abets a prohibited act affecting any of the AHCCCS programs or Health Care Group to be engaging in a prohibited act under A.R.S. § 36-2918(A).
- B. Purpose. This Article describes the circumstances AHCCCS considers and the process that AHCCCS uses to determine the amount of a penalty, assessment, or penalty and assessment as required under A.R.S. § 36-2918. This Article includes the process and time-frames used by a person to request a State Fair Hearing.
- C. Definitions. The following definitions apply to this Article:
  1. "Assessment" means a monetary amount that does not exceed twice the dollar amount claimed by the person for each service.
  2. "Claim" means a request for payment submitted by a person for payment for a service or line item of service, including a submission of an encounter.
  3. "Day" means calendar day unless otherwise specified.
  4. "File" means the date that AHCCCS receives a written acceptance, request for compromise, request for a counter proposal, or a request for a State Fair Hearing as established by a date stamp on the written document or other record of receipt.
  5. "Penalty" means a monetary amount, based on the number of items of service claimed or reported, that does not exceed \$2,000 times the number of line items of service.
  6. "Person" means an individual or entity as described under A.R.S. § 1-215.
  7. "Reason to know" or "had reason to know" means that a person, acts in deliberate ignorance of the truth or falsity of, or with reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.

**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5).  
 Amended subsection A. effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective June 9, 1998 (Supp. 98-2).  
 Amended by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1102. Determining the Amount of a Penalty and an Assessment**

- A. AHCCCS shall determine the amount of a penalty and assessment according to A.R.S. § 36-2918(B) and (C), R9-22-1104, and R9-22-1105.
- B. AHCCCS shall include in the amount of the penalty and assessment the cost incurred by AHCCCS for conducting the following:
  1. An investigation,
  2. Audit, or
  3. Inquiry.

**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5).  
 Amended effective December 13, 1993 (Supp. 93-4).  
 Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
 Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1103. Repealed****Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5).  
 Amended effective December 13, 1993 (Supp. 93-4).  
 Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
 Section repealed by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1104. Mitigating Circumstances**

AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of a claim. The following are mitigating circumstances:
  - a. All the services are of the same type,
  - b. All the dates of services occurred within six months or less,
  - c. The number of claims submitted is less than 25,
  - d. The nature and circumstances do not indicate a pattern of inappropriate claims for the services, and
  - e. The total amount claimed for the services is less than \$1,000.
2. Degree of culpability. The degree of culpability of a person who presents or causes to present a claim is a mitigating circumstance if:
  - a. Each service is the result of an unintentional and unrecognized error in the process that the person followed in presenting or in causing to present the service,
  - b. Corrective steps were taken promptly by the person after the error was discovered, and
  - c. The person had a fraud and abuse control plan that was operating effectively at the time each claim was presented or caused to be presented.
3. Financial condition. The financial condition of a person who presents or causes to present a claim is a mitigating circumstance if the imposition of a penalty, assessment, or penalty and assessment without reduction will render the provider incapable to continue providing services. AHCCCS shall consider the resources available to the person when determining the amount of the penalty, assessment, or penalty and assessment.
4. Other matters as justice may require. AHCCCS shall take into account other circumstances of a mitigating nature, if

in the interest of justice, the circumstances require a reduction of the penalty, assessment, or penalty and assessment.

#### Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).  
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

#### R9-22-1105. Aggravating Circumstances

AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. Nature and circumstances of each claim. The nature and circumstances of each claim and the circumstances under which the claim is presented or caused to be presented are aggravating circumstances if:
  - a. A person has forged, altered, recreated, or destroyed records;
  - b. The person refuses to provide pertinent documentation to AHCCCS for a claim or refuses to cooperate with investigators;
  - c. The services are of several types;
  - d. All the dates of services did not occur within six months or less;
  - e. The number of claims submitted is greater than 25;
  - f. The nature and circumstances indicate a pattern of inappropriate claims for the services; and
  - g. The total amount claimed for the services is \$5,000 or greater.
2. Degree of culpability. The degree of culpability of a person who presents or causes to present each claim is an aggravating circumstance if:
  - a. The person knows or had reason to know that each service was not provided as claimed,
  - b. The person knows or had reason to know that no payment could be made because the person had been excluded from reimbursement by AHCCCS, or
  - c. The person knows or had reason to know that the payment would violate the terms of an agreement between the person and AHCCCS system.
3. Prior offenses. The prior offenses of a person who presents or causes to present each claim are an aggravating circumstance if:
  - a. At any time before the submittal of the claim the person was held criminally or civilly liable for any act, or
  - b. The person had received an administrative sanction in connection with:
    - i. A Medicaid program,
    - ii. A Medicare program, or
    - iii. Any other public or private program of reimbursement for medical services.
4. Effect on patient care. The adverse effect on patient care that resulted, or could have resulted, from the failure to provide medically necessary care by a person in connection with a claim.
5. Other matters as justice may require. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice, the circumstances require an increase of the penalty, assessment, or penalty and assessment.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

#### R9-22-1106. Notice of Intent

If AHCCCS imposes a penalty, assessment, or a penalty and assessment, AHCCCS shall hand deliver or send by certified mail return receipt requested or Federal Express to the person, a written Notice of Intent to impose a penalty, assessment, or a penalty and assessment. The Notice of Intent shall include:

1. The statutory basis for the penalty, assessment, or the penalty and assessment;
2. Identification of the state or federal regulation and state or federal law that AHCCCS alleges has been violated;
3. The factual basis for AHCCCS' determination that the penalty, assessment, or the penalty and assessment should be imposed;
4. The amount of the penalty, assessment, or penalty and assessment;
5. The process for the person to accept or request a compromise of the penalty, assessment, or penalty and assessment; and
6. The process for requesting a State Fair Hearing.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

#### R9-22-1107. Reserved

#### R9-22-1108. Request for a Compromise

- A. To request a compromise, the person shall file a written request with AHCCCS within 30 days from the date of receipt of the Notice of Intent. The written request for compromise shall contain the person's reasons for the reduction or modification of the penalty, assessment, or penalty and assessment.
- B. Within 30 days from the date of receipt of the request for compromise from the person, AHCCCS shall send a Notice of Compromise Decision that accepts, denies, or offers a counter proposal to the person's request for compromise. If AHCCCS offers a counter proposal the amount of the counter proposal shall represent the penalty, assessment, or penalty and assessment.
  1. If AHCCCS does not withdraw the Notice of Intent under R9-22-1112 or denies the request for compromise the original penalty, assessment, or penalty and assessment is upheld.
  2. To dispute the Compromise Decision, the person shall file a request for a State Fair Hearing under R9-22-1110 within 30 days from the date of receipt of the Notice of Compromise Decision.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

#### R9-22-1109. Failure to Respond to the Notice of Intent

If a person fails to respond timely to the Notice of Intent, AHCCCS shall uphold the original penalty, assessment, or penalty and assessment.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1110. Request for State Fair Hearing**

- A. To request a State Fair Hearing regarding a dispute concerning a penalty, assessment, or penalty and assessment, the person shall file a written request for a State Fair Hearing with AHCCCS within 60 days from the date of the receipt of the Notice of Intent under R9-22-1106 or within 30 days from the date of receipt of the Notice of Compromise Decision under R9-22-1108, if applicable.
- B. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the person.
- C. AHCCCS shall mail a Director's Decision to the person no later than 30 days after the date the Administrative Law Judge sends the decision of the Office of Administrative Hearings (OAH) to AHCCCS.
- D. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is received from the person before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092 et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092 et seq., a person may withdraw the hearing request only by sending a written request for withdrawal to OAH.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1111. Issues and Burden of Proof**

- A. Preponderance of evidence. In any State Fair Hearing conducted under R9-22-1110, AHCCCS shall prove by a preponderance of the evidence that a person presented or caused to be presented each claim in violation of this Article and any aggravating circumstances under R9-22-1105. A person shall bear the burden of producing and proving by a preponderance of the evidence any circumstance that would justify reducing the amount of the penalty, assessment, or penalty and assessment.
- B. Statistical sampling.
  1. In meeting the burden of proof described in subsection (A), AHCCCS may introduce the results of a statistical sampling study as evidence of the number and amount of claims that were presented or caused to be presented by the person. A statistical sampling study constitutes prima facie evidence of the number and amount of claims if computed by valid statistical methods.
  2. The burden of proof shall shift to the person to produce evidence reasonably calculated to rebut the findings of the statistical sampling study once AHCCCS has made a prima facie case as described in subsection (B)(1). AHCCCS shall be given the opportunity to rebut this evidence.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).  
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

**R9-22-1112. Withdrawal and Continuances**

AHCCCS may withdraw the Notice of Intent at any time. Prior to referring a matter to the Office of Administrative Hearings the parties may mutually agree to a continuance.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES****R9-22-1201. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations specified in this Article.

1. Administration. The program shall be administered as specified in A.R.S. § 36-2903.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2907 and this Chapter.
3. Definitions. The following definitions apply to this Article:
  - a. "Agency" for the purposes of this Article means the same as in A.A.C. R9-20-101.
  - b. "Behavior management services" means services that assist the member in carrying out daily living tasks and other activities essential for living in the community, including personal care services.
  - c. "Behavioral health adult therapeutic home" means a licensed behavioral health service agency that is the licensee's residence where behavioral health adult therapeutic home care services are provided to at least one, but no more than three individuals, who reside at the residence, have been diagnosed with behavioral health issues, and are provided with food and are integrated into the licensee's family.
  - d. "Behavioral health therapeutic home care services" means interactions that teach the client living, social, and communication skills to maximize the client's ability to live and participate in the community and to function independently, including assistance in the self-administration of medication and any ancillary services indicated by the client's treatment plan, as appropriate.
  - e. "Behavioral health evaluation" means the assessment of a member's medical, psychological, psychiatric, or social condition to determine if a behavioral health disorder exists and, if so, to establish a treatment plan for all medically necessary services.
  - f. "Behavioral health medical practitioner" means a health care practitioner with at least one year of full-time behavioral health work experience.
  - g. "Behavioral health professional" means the same as in A.A.C. R9-20-101.
  - h. "Behavioral health service" means a service provided for the evaluation and diagnosis of a mental health or substance abuse condition and the planned care, treatment, and rehabilitation of the member.
  - i. "Behavioral health technician" means the same as in A.A.C. R9-20-101.
  - j. "Case management" for the purposes of this Article, means services and activities that enhance treatment, compliance, and effectiveness of treatment.
  - k. "Certified psychiatric nurse practitioner" means a registered nurse practitioner who meets the psychiatric specialty area requirements under A.A.C. R4-19-505(C).
  - l. "Client" for the purposes of this rule means the same as in A.A.C. R9-22-101.
  - m. "Cost avoid" means to avoid payment of a third-party liability claim when the probable existence of

- third-party liability has been established under 42 CFR 433.139(b).
- n. “Health care practitioner” means a:
    - Physician;
    - Physician assistant;
    - Nurse practitioner; or
    - Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.
  - o. “Licensee” means the same as in A.A.C. R9-20-101.
  - p. “OBHL” means the same as in A.A.C. R9-20-101.
  - q. “Partial care” means a day program of services provided to individual members or groups that is designed to improve the ability of a person to function in a community, and includes basic, therapeutic, and medical day programs.
  - r. “Physician assistant” means the same as in A.R.S. § 32-2501 except that when providing a behavioral health service, the physician assistant shall be supervised by an AHCCCS-registered psychiatrist.
  - s. “Psychiatrist” means a physician who meets the licensing requirements under A.R.S. § 32-1401 or a doctor of osteopathy who meets the licensing requirements under A.R.S. § 32-1800, and meets the additional requirements of a psychiatrist under A.R.S. § 36-501.
  - t. “Psychologist” means a person who meets the licensing requirements under A.R.S. §§ 32-2061 and 36-501.
  - u. “Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-22-1206.
  - v. “Respite” means a period of care and supervision of a member to provide rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during respite.
  - w. “TRBHA” or “Tribal Regional Behavioral Health Authority” means a Native American tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible and enrolled members of the federally-recognized tribal nation.
1. Be responsible for providing all inpatient emergency behavioral health services for a non-FES member with a psychiatric or substance abuse diagnosis who is enrolled with a contractor in accordance with R9-22-210.01(A)(3);
  2. Be responsible for providing all inpatient emergency behavioral health services for a FFS member with a psychiatric or substance abuse diagnosis who is not enrolled with a contractor in accordance with R9-22-210.01(A)(3);
  3. Be responsible for providing all non-inpatient emergency behavioral health services for a non-FES member in accordance with R9-22-210.01;
  4. Be responsible for providing all non-emergency behavioral health services for a non-FES member;
  5. Contract with a RBHA for the provision of behavioral health services in R9-22-1205 for all Title XIX members under A.R.S. § 36-2907. ADHS/DBHS shall ensure that a RBHA provides behavioral health services to members directly, or through subcontracts, with qualified service providers who meet the qualifications specified in R9-22-1206. If behavioral health services are unavailable within a RBHA’s GSA, ADHS/DBHS shall ensure that a RBHA provides behavioral health services to a Title XIX member outside the RBHA’s GSA;
  6. Ensure that a member’s behavioral health service is provided in collaboration with a member’s primary care provider; and
  7. Coordinate the transition of care and medical records, under A.R.S. §§ 36-2903, 36-509, R9-22-512, and in contract, when a member transitions from:
    - a. A behavioral health provider to another behavioral health provider,
    - b. A RBHA to another RBHA,
    - c. A RBHA to a contractor,
    - d. A contractor to a RBHA, or
    - e. A contractor to another contractor.
- B.** ADHS/DBHS may contract with a TRBHA for the provision of behavioral health services for Native American members. Native American members may receive covered behavioral health services:
1. From an IHS facility,
  2. From a TRBHA, or
  3. From a RBHA.
- C.** Contractor responsibilities. A contractor shall:
1. Refer a member to an a RBHA under the contract terms;
  2. Provide EPSDT developmental and behavioral health screening as specified in R9-22-213;
  3. Provide inpatient emergency behavioral health services as specified in R9-22-1205 and R9-22-210.01 for a member not yet enrolled with a RBHA or TRBHA and all behavioral health services as specified in contract;
  4. Provide psychotropic medication services for a member, in consultation with the member’s RBHA as needed, for behavioral health conditions specified in contract and within the primary care provider’s scope of practice; and
  5. Coordinate a member’s transition of care and medical records under subsection (A)(7).

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

#### R9-22-1202. ADHS and Contractor Responsibilities

- A.** ADHS responsibilities. Except as provided in subsection (B), behavioral health services shall be provided by a RBHA through a contract with ADHS/DBHS. ADHS/DBHS shall:

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993

(Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4).

Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct typographical errors, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

#### **R9-22-1203. Eligibility for Covered Services**

- A.** Title XIX members. A member determined eligible under A.R.S. § 36-2901(6)(a), shall receive medically necessary covered services under R9-22-1205 and R9-22-201.
- B.** FES members. A person who would be eligible under A.R.S. § 36-2901(6)(a)(i), A.R.S. § 36-2901(6)(a)(ii), or A.R.S. § 36-2901(6)(a)(iii) except for the failure to meet the U.S. citizenship or qualified alien status requirements under A.R.S. § 36-2903.03(A) and A.R.S. § 36-2903.03(B) is eligible for emergency services only.

#### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

#### **R9-22-1204. General Service Requirements**

- A.** Services. Behavioral health services include both mental health and substance abuse services.
- B.** Medical necessity. A service shall be medically necessary as provide under R9-22-201.
- C.** Prior authorization. A service shall be provided to a member under Title 36, Chapter 29, Article 1, by a contractor, subcontractor, or provider consistent with the prior authorization requirements in contract and the following:
  - 1. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
  - 2. Non-emergency behavioral health services. When a member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of ADHS/DBHS or the RBHA/TRBHA.
- D.** EPSDT. For Title XIX members under age 21, EPSDT services include all medically necessary covered behavioral health services.
- E.** Experimental services. Experimental services and services that are provided primarily for the purpose of research are not covered.
- F.** Gratuities. A service or an item, if furnished gratuitously to a member, is not covered and payment to a provider shall be denied.

- G.** GSA. Behavioral health services rendered to a member shall be provided within the RBHA's GSA except when:
  - 1. A contractor's primary care provider refers a member to another area for medical specialty care,
  - 2. A member's medically necessary covered service is not available within the GSA, or
  - 3. A net savings in behavioral health service delivery costs is documented by the RBHA for a member. Undue travel time or hardship for a member or a member's family is considered for a member or a member's family in determining whether there is a net savings.
- H.** Travel. If a member travels or temporarily resides outside of a behavioral health service area, covered services are restricted to emergency behavioral health care, unless otherwise authorized by the member's RBHA or TRBHA.
- I.** Non-covered services. If a member requests a behavioral health service that is not covered or is not authorized by a RBHA or TRBHA, an AHCCCS-registered behavioral health service provider may provide the service according to R9-22-702.
- J.** Referral. If a member is referred outside of a RBHA's or TRBHA's service area to receive authorized, medically necessary behavioral health services, the TRBHA or RBHA is responsible for reimbursement if the claim is otherwise payable under this Chapter.
- K.** Restrictions and limitations.
  - 1. The restrictions, limitations, and exclusions in this Article do not apply to a contractor, ADHS/DBHS, or a RBHA when electing to provide a noncovered service.
  - 2. Room and board is not a covered service unless provided in an inpatient, Level 1 sub-acute, or residential facility under R9-22-1205.

#### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective January 1, 1996; filed with the Secretary of State December 22, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

#### **R9-22-1205. Scope and Coverage of Behavioral Health Services**

- A.** Inpatient behavioral health services. The following inpatient services are covered subject to the limitations and exclusions in this Article.
  - 1. Covered inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment, if the service is provided under the direction of a physician in a Medicare-certified:
    - a. General acute care hospital, or
    - b. Inpatient psychiatric hospital.
  - 2. Inpatient service limitations:

- a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorized.
  - b. Inpatient services and room and board are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
    - i. A licensed psychiatrist,
    - ii. A certified psychiatric nurse practitioner,
    - iii. A licensed physician assistant,
    - iv. A licensed psychologist,
    - v. A licensed clinical social worker,
    - vi. A licensed marriage and family therapist,
    - vii. A licensed professional counselor,
    - viii. A licensed independent substance abuse counselor, and
    - ix. A behavioral health medical practitioner.
  - c. A member age 21 through 64 is eligible for behavioral health services provided in a hospital listed in subsection (A)(1)(b) that meets the criteria for an IMD up to 30 days per admission and no more than 60 days per benefit year as allowed under the Administration's Section 1115 Waiver with CMS.
- B. Level 1 residential treatment center services.** Services provided in a Level 1 residential treatment center as defined in A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 1 residential treatment center services are not covered unless provided under the direction of a licensed physician in a licensed Level 1 residential treatment center accredited by an AHCCCS-approved accrediting body as specified in contract.
  2. Covered residential treatment center services include room and board and treatment services for behavioral health and substance abuse conditions.
  3. Residential treatment center service limitations.
    - a. Services are not covered unless prior authorized, except for emergency services as specified in this Section.
    - b. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
      - i. A licensed psychiatrist,
      - ii. A certified psychiatric nurse practitioner,
      - iii. A licensed physician assistant,
      - iv. A licensed psychologist,
      - v. A licensed clinical social worker,
      - vi. A licensed marriage and family therapist,
      - vii. A licensed professional counselor,
      - viii. A licensed independent substance abuse counselor, and
      - ix. A behavioral health medical practitioner.
  4. The following may be billed independently if prescribed by a provider as specified in this Section who is operating within the scope of practice:
    - a. Laboratory services,
    - b. Radiology services, and
    - c. Psychotropic medication.
- C. Covered Level 1 sub-acute agency services.** Services provided in a Level 1 sub-acute agency as defined in A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 1 sub-acute agency services are not covered unless provided under the direction of a licensed physician in a licensed Level 1 sub-acute agency that is accredited by an AHCCCS-approved accrediting body as specified in contract.
  2. Covered Level 1 sub-acute agency services include room and board and treatment services for behavioral health and substance abuse conditions.
  3. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
    - a. A licensed psychiatrist,
    - b. A certified psychiatric nurse practitioner,
    - c. A licensed physician assistant,
    - d. A licensed psychologist,
    - e. A licensed clinical social worker,
    - f. A licensed marriage and family therapist,
    - g. A licensed professional counselor,
    - h. A licensed independent substance abuse counselor, and
    - i. A behavioral health medical practitioner.
  4. The following may be billed independently if prescribed by a provider specified in this Section who is operating within the scope of practice:
    - a. Laboratory services,
    - b. Radiology services, and
    - c. Psychotropic medication.
  5. A member age 21 through 64 is eligible for behavioral health services provided in a Level 1 sub-acute agency that meets the criteria for an IMD for up to 30 days per admission and no more than 60 days per benefit year as allowed under the Administration's Section 1115 Waiver with CMS. These limitations do not apply to a member under age 21 or age 65 or over.
- D. Level 2 behavioral health residential agency services.** Services provided in a Level 2 behavioral health residential agency are covered subject to the limitations and exclusions in this Article.
1. Level 2 behavioral health residential agency services are not covered unless provided by a licensed Level 2 behavioral health residential agency as defined in A.A.C. R9-20-101.
  2. Covered services include all services except room and board.
  3. The following licensed or certified providers may bill independently for services:
    - a. A licensed psychiatrist,
    - b. A certified psychiatric nurse practitioner,
    - c. A licensed physician assistant,
    - d. A licensed psychologist,
    - e. A licensed clinical social worker,
    - f. A licensed marriage and family therapist,
    - g. A licensed professional counselor,
    - h. A licensed independent substance abuse counselor, and
    - i. A behavioral health medical practitioner.
- E. Level 3 behavioral health residential agency services.** Services provided in a licensed Level 3 behavioral health residential agency as defined in A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
1. Level 3 behavioral health residential agency services are not covered unless provided by a licensed Level 3 behavioral health residential agency.
  2. Covered services include all non-prescription drugs as defined in A.R.S. § 32-1901, non-customized medical supplies, and clinical supervision of the Level 3 behavior

- ioral health residential agency staff. Room and board are not covered services.
3. The following licensed and certified providers may bill independently for services:
    - a. A licensed psychiatrist,
    - b. A certified psychiatric nurse practitioner,
    - c. A licensed physician assistant,
    - d. A licensed psychologist,
    - e. A licensed clinical social worker,
    - f. A licensed marriage and family therapist,
    - g. A licensed professional counselor,
    - h. A licensed independent substance abuse counselor, and
    - i. A behavioral health medical practitioner.
- F.** Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.
1. Partial care services are not covered unless provided by a licensed and AHCCCS-registered behavioral health agency that provides a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community. Partial care services include basic, therapeutic, and medical day programs.
  2. Partial care services. Educational services that are therapeutic and are included in the member's behavioral health treatment plan are included in per diem reimbursement for partial care services.
- G.** Outpatient services. Outpatient services are covered subject to the limitations and exclusions in this Article.
1. Outpatient services include the following:
    - a. Screening provided by a behavioral health professional or a behavioral health technician as defined in R9-22-1201;
    - b. A behavioral health evaluation provided by a behavioral health professional or a behavioral health technician;
    - c. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician;
    - d. Behavior management services as defined in R9-22-1201; and
    - e. Psychosocial rehabilitation services as defined in R9-22-102.
  2. Outpatient service limitations.
    - a. The following licensed or certified providers may bill independently for outpatient services:
      - i. A licensed psychiatrist;
      - ii. A certified psychiatric nurse practitioner;
      - iii. A licensed physician assistant as defined in R9-22-1201;
      - iv. A licensed psychologist;
      - v. A licensed clinical social worker;
      - vi. A licensed professional counselor;
      - vii. A licensed marriage and family therapist;
      - viii. A licensed independent substance abuse counselor;
      - ix. A behavioral health medical practitioner; and
      - x. An outpatient clinic or a Level IV transitional agency licensed under 9 A.A.C. 20, Article 1, that is an AHCCCS-registered provider.
    - b. A behavioral health practitioner not specified in subsections (G)(2)(a)(i) through (x), who is contracted with or employed by an AHCCCS-registered behavioral health agency shall not bill independently.
- H.** Emergency behavioral health services are covered subject to the limitations and exclusions under this Article. In order to be covered, behavioral health services shall be provided by qualified service providers under R9-22-1206. ADHS/DBHS shall ensure that emergency behavioral health services are available 24 hours per day, seven days per week in each GSA for an emergency behavioral health condition for a non-FES member as defined in R9-22-102.
- I.** Other covered behavioral health services. Other covered behavioral health services include:
1. Case management as defined in R9-22-1201;
  2. Laboratory and radiology services for behavioral health diagnosis and medication management;
  3. Psychotropic medication and related medication;
  4. Monitoring, administration, and adjustment for psychotropic medication and related medications;
  5. Respite care as described within subsection (K);
  6. Behavioral health therapeutic home care services provided by a RBHA in a professional foster home defined in 6 A.A.C. 5, Article 58 or in a behavioral health adult therapeutic home as defined in 9 A.A.C. 20, Article 1;
  7. Personal care services, including assistance with daily living skills and tasks, homemaking, bathing, dressing, food preparation, oral hygiene, self-administration of medications, and monitoring of the behavioral health recipient's condition and functioning level provided by a licensed and AHCCCS-registered behavioral health agency or a behavioral health professional, behavioral health technician, or behavioral health paraprofessional as defined in 9 A.A.C. 20, Article 1; and
  8. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.
- J.** Transportation services. Transportation services are covered under R9-22-211.
- K.** Limited Behavioral Health services. Respite services are limited to no more than 600 hours per benefit year.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by exempt rulemaking at 17 A.A.R. 1870, effective October 1, 2011 (Supp. 11-3).

#### R9-22-1206. General Provisions and Standards for Service Providers

- A.** Qualified service provider. A qualified behavioral health service provider shall:
1. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
  2. Register with the Administration as a service provider;
  3. Comply with all requirements under Article 5 and this Article.



4. Register with ADHS/DBHS as a behavioral health service provider, and
5. Contract with the appropriate RBHA/TRBHA.

**B. Quality and utilization management.**

1. Service providers shall cooperate with the quality and utilization management programs of a RBHA, a TRBHA, a contractor, ADHS/DBHS, and the Administration as specified in this Chapter and in contract.
2. Service providers shall comply with applicable procedures under 42 CFR 456, as of October 1, 2006, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC 20401. This incorporation contains no future editions or amendments.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

**R9-22-1207. General Provisions for Payment**

- A.** Payment to ADHS/DBHS. The Administration shall make a monthly capitation payment to ADHS/DBHS based on the number of acute members at the beginning of each month. The Administration shall incorporate ADHS/DBHS' administrative costs into the capitation payment.
- B.** Claims submissions.
  1. ADHS/DBHS shall require all service providers to submit clean claims no later than the time-frame specified in ADHS/DBHS' contract with the Administration.
  2. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
  3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a RBHA to the appropriate RBHA, and if not enrolled in a RBHA, to ADHS/DBHS.
  4. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
  5. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
  6. A provider of emergency behavioral health services, that are the responsibility of ADHS/DBHS or a contractor, shall submit a claim to the entity responsible for emergency behavioral health services under R9-22-210.01(A).

7. A provider shall comply with the time-frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
  8. ADHS/DBHS or a contractor, whichever entity is responsible for covering behavioral health services, shall cost avoid any behavioral health service claims if it establishes the existence or probable existence of first-party liability or third-party liability.
- C.** Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization from a RBHA, ADHS/DBHS, a TRBHA, or a contractor.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

**R9-22-1208. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4).

**ARTICLE 13. CHILDREN'S REHABILITATIVE SERVICES (CRS)**

*Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).*

*Article 13, consisting of Sections R9-22-1301 through R9-22-1309, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).*

**R9-22-1301. Children's Rehabilitative Services (CRS) related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

"Active treatment" means there is a current need for treatment or evaluation for continuing treatment of the CRS qualifying condition or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition will be needed within the next 18 months.

"CRS application" means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"Chronic" means expected to persist over an extended period of time.

"CRS condition" means any of the covered medical conditions in R9-22-1303.

"CRS provider" means a person who is authorized by employment or written agreement with the Administration to provide

covered CRS medical services to a member or covered support services to a member or a member's family.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a CRS provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

#### Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).  
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

### R9-22-1302. Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013, an AHCCCS eligible individual who needs active treatment for one or more of the qualifying medical conditions in R9-22-1303 shall be enrolled with the CRS contractor, unless enrolled with an ALTCS EPD contractor. Initial enrollment with the CRS contractor is limited to individuals under the age of 21. The CRS contractor shall provide covered services necessary to treat the CRS condition and other services described within the CRS contract. The effective date of enrollment in CRS shall be as specified in contract.

#### Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).  
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

### R9-22-1303. Medical Eligibility

The following lists identify those medical conditions that do qualify for the CRS program as well as those that do not qualify for the CRS program. The covered conditions list is all inclusive. The list of conditions not covered by CRS is not an all-inclusive list:

1. Cardiovascular System:
  - a. CRS conditions:
    - i. Congenital heart defect,
    - ii. Cardiomyopathy,
    - iii. Valvular disorder,
    - iv. Arrhythmia,
    - v. Conduction defect,
    - vi. Rheumatic heart disease,
    - vii. Renal vascular hypertension,
    - viii. Arteriovenous fistula, and
    - ix. Kawasaki disease with coronary artery aneurysm.
  - b. Conditions not medically eligible for CRS:
    - i. Essential hypertension;
    - ii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance;
    - iii. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function; and
    - iv. Benign heart murmur.
2. Endocrine system:
  - a. CRS conditions:
    - i. Hypothyroidism,
    - ii. Hyperthyroidism,
    - iii. Adrenogenital syndrome,
    - iv. Addison's disease,
    - v. Hypoparathyroidism,
    - vi. Hyperparathyroidism,
    - vii. Diabetes insipidus,
    - viii. Cystic fibrosis, and
    - ix. Panhypopituitarism.
  - b. Conditions not medically eligible for CRS:
    - i. Diabetes mellitus,
    - ii. Isolated growth hormone deficiency,
    - iii. Hypopituitarism encountered in the acute treatment of a malignancy, and
    - iv. Precocious puberty.
3. Genitourinary system medical conditions:
  - a. CRS conditions:
    - i. Vesicoureteral reflux, with at least mild or moderate dilatation and tortuosity of the ureter and mild or moderate dilatation of renal pelvis;
    - ii. Ectopic ureter;
    - iii. Ambiguous genitalia;
    - iv. Ureteral stricture;
    - v. Complex hypospadias;
    - vi. Hydronephrosis;
    - vii. Deformity and dysfunction of the genitourinary system secondary to trauma after the acute phase of the trauma has passed;
    - viii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required;
    - ix. Multicystic dysplastic kidneys;
    - x. Nephritis associated with lupus erythematosus; and
    - xi. Hydrocele associated with a ventriculo-peritoneal shunt.
  - b. Conditions not medically eligible for CRS:
    - i. Nephritis, infectious or noninfectious;
    - ii. Nephrosis;
    - iii. Undescended testicle;
    - iv. Phimosis;
    - v. Hydrocele not associated with a ventriculo-peritoneal shunt;
    - vi. Enuresis;
    - vii. Meatal stenosis; and
    - viii. Hypospadias involving isolated glandular or coronal aberrant location of the urethralmeatus without curvature of the penis.
4. Ear, nose, or throat medical conditions:
  - a. CRS conditions:
    - i. Cholesteatoma;
    - ii. Chronic mastoiditis;
    - iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, after the acute phase of the trauma has passed;
    - iv. Neurosensory hearing loss;
    - v. Congenital malformation;
    - vi. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels, that despite medical treatment, requires a hearing aid;
    - vii. Craniofacial anomaly that requires treatment by more than one CRS provider; and
    - viii. Microtia that requires multiple surgical interventions.
  - b. Conditions not medically eligible for CRS:

## Arizona Health Care Cost Containment System – Administration

- i. Tonsillitis;
  - ii. Adenoiditis;
  - iii. Hypertrophic lingual frenum;
  - iv. Nasal polyp;
  - v. Cranial or temporal mandibular joint syndrome;
  - vi. Simple deviated nasal septum;
  - vii. Recurrent otitis media;
  - viii. Obstructive apnea;
  - ix. Acute perforation of the tympanic membrane;
  - x. Sinusitis;
  - xi. Isolated preauricular tag or pit, and
  - xii. Uncontrolled salivation.
5. Musculoskeletal system medical conditions:
  - a. CRS conditions:
    - i. Achondroplasia;
    - ii. Hypochondroplasia;
    - iii. Diastrophic dysplasia;
    - iv. Chondrodysplasia;
    - v. Chondroectodermal dysplasia;
    - vi. Spondyloepiphyseal dysplasia;
    - vii. Metaphyseal and epiphyseal dysplasia;
    - viii. Larsen syndrome;
    - ix. Fibrous dysplasia;
    - x. Osteogenesis imperfecta;
    - xi. Rickets;
    - xii. Enchondromatosis;
    - xiii. Juvenile rheumatoid arthritis;
    - xiv. Seronegative spondyloarthropathy;
    - xv. Orthopedic complications of hemophilia;
    - xvi. Myopathy;
    - xvii. Muscular dystrophy;
    - xviii. Myoneural disorder;
    - xix. Arthrogryposis;
    - xx. Spinal muscle atrophy;
    - xxi. Polyneuropathy;
    - xxii. Chronic stage bone infection;
    - xxiii. Chronic stage joint infection;
    - xxiv. Upper limb amputation;
    - xxv. Syndactyly;
    - xxvi. Kyphosis;
    - xxvii. Scoliosis;
    - xxviii. Congenital spinal deformity;
    - xxix. Congenital or developmental cervical spine abnormality;
    - xxx. Hip dysplasia;
    - xxxi. Slipped capital femoral epiphysis;
    - xxxii. Femoral anteversion and tibial torsion;
    - xxxiii. Legg-Calve-Perthes disease;
    - xxxiv. Lower limb amputation, including prosthetic sequelae of cancer;
    - xxxv. Metatarsus adductus;
    - xxxvi. Leg length discrepancy of five centimeters or more;
    - xxxvii. Metatarsus primus varus;
    - xxxviii. Dorsal bunions;
    - xxxix. Collagen vascular disease;
    - xl. Benign bone tumor;
    - xli. Deformity and dysfunction secondary to musculoskeletal trauma;
    - xl. Osgood Schlatter's disease that requires surgical intervention; and
    - xl. Complicated flat foot, such as rigid foot, unstable subtalar joint, or significant calcaneus deformity.
  - b. Conditions not medically eligible for CRS:
- i. Ingrown toenail;
  - ii. Back pain with no structural abnormality;
  - iii. Ganglion cyst;
  - iv. Flat foot other than complicated flat foot;
  - v. Fracture;
  - vi. Popliteal cyst;
  - vii. Simple bunion; and
  - viii. Carpal tunnel syndrome;
  - ix. Deformity and dysfunction secondary to trauma or injury if:
    - (1) Three months have not passed since the trauma or injury, and
    - (2) Leg length discrepancy of less than five centimeters at skeletal maturity.
6. Gastrointestinal system medical conditions:
  - a. CRS conditions:
    - i. Tracheoesophageal fistula;
    - ii. Anorectal atresia;
    - iii. Hirschsprung's disease;
    - iv. Diaphragmatic hernia;
    - v. Gastroesophageal reflux that has failed treatment with drugs or biologicals and requires surgery;
    - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, after the acute phase of the trauma has passed;
    - vii. Biliary atresia;
    - viii. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract;
    - ix. Cleft lip;
    - x. Cleft palate;
    - xi. Omphalocele; and
    - xii. Gastroschisis.
  - b. Conditions not medically eligible for CRS:
    - i. Malabsorption syndrome, also known as short bowel syndrome;
    - ii. Crohn's disease;
    - iii. Hernia other than a diaphragmatic hernia;
    - iv. Ulcer disease;
    - v. Ulcerative colitis;
    - vi. Intestinal polyp;
    - vii. Pyloric stenosis; and
    - viii. Celiac disease.
7. Nervous system medical conditions:
  - a. CRS conditions:
    - i. Uncontrolled seizure disorder, in which there have been more than two seizures with documented adequate blood levels of one or more medications;
    - ii. Cerebral palsy;
    - iii. Muscular dystrophy or other myopathy;
    - iv. Myoneural disorder;
    - v. Neuropathy, hereditary or idiopathic;
    - vi. Central nervous system degenerative disease;
    - vii. Central nervous system malformation or structural abnormality;
    - viii. Hydrocephalus;
    - ix. Craniosynostosis of a sagittal suture, a unilateral coronal suture, or multiple sutures in a child less than 18 months of age;
    - x. Myasthenia gravis, congenital or acquired;
    - xi. Benign intracranial tumor;
    - xii. Benign intraspinal tumor;
    - xiii. Tourette's syndrome;

- xiv. Residual dysfunction after resolution of an acute phase of vascular accident, inflammatory condition, or infection of the central nervous system;
  - xv. Myelomeningocele, also known as spina bifida;
  - xvi. Neurofibromatosis;
  - xvii. Deformity and dysfunction secondary to trauma in an individual;
  - xviii. Residual dysfunction after acute phase of near drowning; and
  - xix. Residual dysfunction after acute phase of spinal cord injury.
- b. Conditions not medically eligible for CRS:
- i. Headaches;
  - ii. Central apnea secondary to prematurity;
  - iii. Near sudden infant death syndrome;
  - iv. Febrile seizures;
  - v. Occipital plagiocephaly, either positional or secondary to lambdoidal synostosis;
  - vi. Trigonoccephaly secondary to isolated metopic synostosis;
  - vii. Spina bifida occulta;
  - viii. Near drowning in the acute phase; and
  - ix. Spinal cord injury in the acute phase;
  - x. Chronic vegetative state.
8. Ophthalmology:
- a. CRS conditions:
- i. Cataracts;
  - ii. Glaucoma;
  - iii. Disorder of the optic nerve;
  - iv. Non-malignant enucleation and post-enucleation reconstruction;
  - v. Retinopathy of prematurity; and
  - vi. Disorder of the iris, ciliary bodies, retina, lens, or cornea.
- b. Conditions not medically eligible for CRS:
- i. Simple refraction error,
  - ii. Astigmatism,
  - iii. Strabismus, and
  - iv. Ptosis.
9. Respiratory system medical conditions:
- a. CRS conditions:
- i. Anomaly of the larynx, trachea, or bronchi that requires surgery; and
  - ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi.
- b. Conditions not medically eligible for CRS:
- i. Respiratory distress syndrome,
  - ii. Asthma,
  - iii. Allergies,
  - iv. Bronchopulmonary dysplasia,
  - v. Emphysema,
  - vi. Chronic obstructive pulmonary disease, and
  - vii. Acute or chronic respiratory condition requiring venting for the neuromuscularly impaired.
10. Integumentary system medical conditions:
- a. CRS conditions:
- i. A craniofacial anomaly that is functionally limiting,
  - ii. A burn scar that is functionally limiting,
  - iii. A hemangioma that is functionally limiting,
  - iv. Cystic hygroma, and
  - v. Complicated nevi requiring multiple procedures.
- b. Conditions not medically eligible for CRS:
- i. A deformity that is not functionally limiting,
  - ii. A burn other than a burn scar that is functionally limiting,
  - iii. Simple nevi,
  - iv. Skin tag,
  - v. Port wine stain,
  - vi. Sebaceous cyst,
  - vii. Isolated malocclusion that is not functionally limiting,
  - viii. Pilonidal cyst,
  - ix. Ectodermal dysplasia, and
  - x. A craniofacial anomaly that is not functionally limiting.
11. Metabolic CRS conditions:
- a. Amino acid or organic acidopathy,
  - b. Inborn error of metabolism,
  - c. Storage disease,
  - d. Phenylketonuria,
  - e. Homocystinuria,
  - f. Maple syrup urine disease,
  - g. Biotinidase deficiency.
12. Hemoglobinopathies CRS conditions:
- a. Sickle cell anemia,
  - b. Thalassemia.
13. Medical/behavioral conditions which are not medically eligible for CRS:
- a. Allergies;
  - b. Anorexia nervosa or obesity;
  - c. Autism;
  - d. Cancer;
  - e. Depression or other mental illness;
  - f. Developmental delay;
  - g. Dyslexia or other learning disabilities;
  - h. Failure to thrive;
  - i. Hyperactivity;
  - j. Attention deficit disorder; and
  - k. Immunodeficiency, such as AIDS and HIV.

#### Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).  
Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

#### R9-22-1304. Referral and Disposition of CRS Medical Eligibility Determination

- A.** To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:
- 1. CRS application;
  - 2. Documentation from a provider who evaluated the individual, stating the individual's diagnosis;
  - 3. Diagnostic test results that support the individual's diagnosis; and
  - 4. Documentation of the individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.
- B.** The Administration shall notify the CRS applicant, member or authorized representative of the outcome of the determination within 60 days of receipt of information required under subsection (A). The member may appeal the determination under 9 A.A.C. 34.

#### Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).  
Amended by final rulemaking at 6 A.A.R. 3317, effective

August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

#### **R9-22-1305. CRS Redetermination**

- A.** Continued eligibility for the CRS program shall be redetermined by verifying active treatment status of the CRS qualifying medical conditions as follows:
  1. The CRS Contractor is responsible for notifying the AHCCCS Administration of the date when a CRS member is no longer in active treatment for the CRS qualifying condition(s).
  2. The Administration may request, at any time, that the CRS contractor submit the medical documentation requested in the CRS medical redetermination form within the specified time-frames in contract.
  3. The Administration shall notify the CRS member or authorized representative of the redetermination process.
- B.** If the Administration determines that a CRS member is no longer medically eligible for CRS, the Administration shall provide the CRS member or authorized representative a written notice that informs the CRS member that the Administration is transitioning the CRS member's enrollment according to R9-22-1306.
- C.** Upon reaching his or her 21st birthday the CRS member will be enrolled with a non-CRS contractor unless the member requests to continue enrollment with the CRS contractor.

#### **Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

#### **R9-22-1306. Transition or Termination**

- A.** The Administration shall transition a CRS member from the CRS contractor when the Administration determines the CRS member does not meet the medical eligibility requirements in R9-22-1301.
- B.** The Administration shall terminate a CRS member from the CRS contractor and the AHCCCS program when the Administration determines the CRS member does not meet the AHCCCS eligibility requirements.
- C.** If the Administration transitions a CRS member from the CRS contractor, the Administration shall provide the CRS member, or authorized representative a written notice of transition.

#### **Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

#### **R9-22-1307. Covered Services**

The AHCCCS will cover medically necessary services as described within Article 2.

#### **Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3).

#### **R9-22-1308. Repealed**

#### **Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

#### **R9-22-1309. Repealed**

#### **Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

### **ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS**

#### **R9-22-1401. General Information**

- A.** Scope. This Article contains eligibility criteria to determine whether a family or individual is eligible for AHCCCS medical coverage.
- B.** Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article and Article 15 have the following meanings unless the context explicitly requires another meaning:

"Baby Arizona" means the public or private partnership program that provides a pregnant woman an opportunity to apply for AHCCCS medical coverage at a Baby Arizona provider's office through a streamlined eligibility process.

"BHS" means the division of Behavioral Health Services within the Arizona Department of Health Services.

"Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.

"Caretaker relative" means a parent who maintains a family setting for a dependent child and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.

"Cash assistance" means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.

"CRS" means the program within ADHS that provides covered medical services and covered support services in accordance with A.R.S. 36-261.

"DCSE" means the Division of Child Support Enforcement, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.

"FAA" means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.

"Homebound" means a person who is confined to home because of physical or mental incapacity.

"Income" means combined earned and unearned income.

"Indigent" means an applicant's total income, including sponsor deemed income actually received, is less than or

equal to 100% of the federal poverty level for the size of the income group under R9-22-1425.

“Liquid assets” means those assets in the form of cash or other financial instruments, that are convertible to cash and include:

- Savings accounts;
- Checking accounts;
- Stocks and bonds;
- Mutual fund shares;
- Promissory notes;
- Cash value of insurance policies; and
- Similar assets.

“Medical expense deduction” or “MED” means the cost of the following expenses if incurred in the United States:

A medical service or supply that would be covered if provided to an AHCCCS member of any age under Articles 2 and 12 of this Chapter;

A medical service or supply that would be covered if provided to an Arizona Long-term Care System member under 9 A.A.C. 28, Articles 2 and 11;

Other necessary medical services provided by a licensed practitioner or physician;

Assistance with daily living if the assistance is documented in an individual plan of care by a nurse, social service worker, registered therapist, or dietitian under the supervision of a physician except when provided by the spouse of an applicant or the parent of a minor child;

Medical services provided in a licensed nursing home or in an alternative HCBS setting under R9-28-101;

Purchasing and maintaining an animal guide or service animal for the assistance of a member of the MED family unit under R9-22-1436; and

Health insurance premiums, deductibles, and coinsurance, if the insured is a member of the MED family unit.

“Medical support” means to provide health care coverage in the form of health insurance or court-ordered payment for medical care.

“Nonparent caretaker relative” means a person, other than a parent, who is related by blood, marriage, or lawful adoption to a dependent child and who:

- Maintains a family setting for the dependent child, and
- Exercises responsibility for the day-to-day physical care, guidance, and support of the dependent child.

“Pre-enrollment process” means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.

“Resources” means real and personal property, including liquid assets.

“Spendthrift restriction” means a legal restriction on the use of a resource that prevents a payee or beneficiary from alienating the resource.

“Sponsor” means an individual who signs the USCIS I-864 Affidavit of Support agreeing to support a non-citizen as a condition of the non-citizen’s admission for permanent residence in the United States.

“Sponsor deemed income” means the unearned income for an applicant named on the USCIS I-864 Affidavit of Support who is applying for AHCCCS medical coverage.

“SVES” means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and State Wage and Unemployment Insurance Benefit data files.

“Title IV-D” means Title IV-D of the Social Security Act, 42 U.S.C. 651-669, the statutes establishing the child support enforcement and paternity program.

“Title IV-E” means Title IV-E of the Social Security Act 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.

“USCIS” means the United States Citizen and Immigration Services.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1402. Ineligible Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except if allowed under the Administration’s Section 1115 waiver.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1403. Agency Responsible for Determining Eligibility

The Department shall determine eligibility under the provisions of this Article. The Department shall not discriminate against an applicant or member because of race, color, creed, religion, ancestry, national origin, age, sex, or physical or mental disability.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1404. Assignment of Rights Under Operation of Law

By operation of law and under A.R.S. § 36-2903, a person determined eligible assigns rights to the system and the county all types of medical benefits to which the person is entitled.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1405. Confidentiality and Safeguarding of Information**

The Administration and Department shall maintain the confidentiality of an applicant or member's records and limit the release of safeguarded information under R9-22-512 and 6 A.A.C. 12, Article 1. In the event of a conflict between R9-22-512 and 6 A.A.C. 12, Article 1, R9-22-512 prevails.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1406. Application Process**

**A.** Right to apply. A person may apply for AHCCCS medical coverage by submitting an Administration-approved written application to the Administration, an FAA office, or one of the following outstation locations:

1. A BHS site;
2. A facility contracted with CRS Administration;
3. A Baby Arizona-approved provider's office, if the applicant is a pregnant woman;
4. A Federally Qualified Health Center or disproportionate share hospital under 42 U.S.C. 1396r-4; or
5. Any other site, including a hospital, approved by the Department or the Administration.

**B.** Written application. To initiate the application process, any person may apply by submitting a written application under 42 CFR 435.907 with the appropriate signatures to one of the sites listed in subsection (A).

1. A written application is one that contains the:
  - a. Applicant's legible name,
  - b. Address or location where the applicant can be reached,
  - c. Signature of the person listed in subsection (D)(2) or (D)(3),
  - d. Date the application was signed.
2. The Administration or Administration's designee shall require that a third party witness the signing and attest by signing the application if the individual signing the application signs with a mark.
3. The Administration or Administration's designee shall accept an application for a person who is incapacitated and whose name and address are unknown.

**C.** Date of application. The date of application is the date a written application is received by the Administration or its designee at a location listed in subsection (A).

**D.** Complete application form.

1. The Administration shall consider an application complete when:
  - a. All questions are answered; and
  - b. All necessary verification is provided by an applicant or an applicant's representative.
2. The Administration or Administration's designee shall not approve an application unless the applicant's legal representative, if one exists, signs the declarations on the application relating to the applicant's eligibility, under penalty of perjury.
3. If there is no legal representative, or the legal representative is incapacitated, one of the following shall sign the declarations on the application relating to the applicant's eligibility, under penalty of perjury:
  - a. The applicant, if age 18 or older;

- b. The applicant, if less than 18 years old and married or not living with a parent;
  - c. The applicant's spouse if the applicant and spouse are not legally separated;
  - d. An adult who lives with an applicant, if the applicant is less than 18 years old or age 18 and a student;
  - e. One of the unmarried partners if living together with a child in common, if the child is the applicant;
  - f. Another party, if the applicant is incapacitated and no one listed in subsections (D)(3)(a) through (e) is available to sign the application on the applicant's behalf. The Administration shall require incapacity to be verified by written documentation signed by a licensed physician or by one of the following:
    - i. A physician assistant,
    - ii. A nurse practitioner, or
    - iii. A registered nurse under the direction of a licensed physician; or
  - g. A person authorized verbally in the presence of an employee of the Administration or the Administration's designee or in writing, by a person listed in subsection (D)(2) or (D)(3)(a) through (c), to represent the applicant in the application process. The authorized representative may sign the declaration on the application relating to the applicant's eligibility, under penalty of perjury.
4. Unmarried adults not applying for a child in common shall each sign the application if using the same application form.
  5. The application shall be witnessed and signed by a third party if the individual signing the application signs with a mark.
  6. If the application is incomplete, the Administration or the Administration's designee shall do at least one of the following:
    - a. Contact an applicant or an applicant's representative by telephone or electronic medium to obtain the missing information required for an eligibility determination;
    - b. Mail a request for additional information to an applicant or an applicant's representative, allowing 10 days from the date of the request to provide the required additional information; or
    - c. Meet with the applicant, representative, or household member.

**E.** Assistance with application. The Administration or Administration's designee shall allow a person of the applicant's choice to accompany, assist, and represent the applicant in the application process.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**R9-22-1407. Deceased Applicants**

- A.** If an applicant dies while an application is pending, the Administration or Administration's designee shall complete an eligibility determination for all applicants listed on the application, including the deceased applicant.
- B.** The Administration or Administration's designee shall complete an eligibility determination on an application filed on

behalf of a deceased applicant, if the application is filed in the same month as the applicant's death.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1408. Applicant and Member Responsibility

- A. An applicant and a member shall authorize the Department to obtain verification for initial eligibility or continuation of eligibility.
- B. As a condition of eligibility, an applicant or a member shall:
  1. Provide the Department with complete and truthful information. The Department may deny an application or discontinue eligibility if:
    - a. The applicant or member fails to provide information necessary for initial or continuing eligibility;
    - b. The applicant or member fails to provide the Department with written authorization to permit the Department to obtain necessary initial or continuing eligibility verification;
    - c. The applicant or member fails to provide verification under R9-22-1412 after the Department made an effort to obtain the necessary verification but has not obtained the necessary information; or
    - d. The applicant or member does not assist the Department in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;
  2. Cooperate with the Division of Child Support Enforcement (DCSE) in establishing paternity and enforcing medical support obligations when requested unless good cause exists for not cooperating under 42 CFR 433.147 as of October 1, 2006, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Department shall not deny AHCCCS eligibility to an applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements under subsection (E) or first- and third-party liability requirements under Article 10 of this Chapter; and
  3. Provide the following information concerning third-party coverage for medical care:
    - a. Name of policyholder,
    - b. Policyholder's relationship to the applicant or member,
    - c. SSN of the policy holder,
    - d. Name and address of the insurance company, and
    - e. Policy number.
- C. A member or an applicant shall:
  1. Send to the Department any medical support payments received while the member is eligible that result from a medical support order;
  2. Cooperate with the Administration or Administration's designee regarding any issues arising as a result of Eligibility Quality Control described under A.R.S. § 36-2903.01; and

3. Inform the Department of the following changes within 10 days from the date the applicant or member knows of a change:
  - a. In address;
  - b. In the household's composition;
  - c. In income;
  - d. In resources, when required under R9-22-1438 for the Medical Expense Deduction (MED) program;
  - e. In Arizona state residency;
  - f. In citizenship or immigrant status;
  - g. In first- or third-party liability that may contribute to the payment of all or a portion of the person's medical costs; or
  - h. That may affect the member's or applicant's eligibility, including a change in a woman's pregnancy status.
- D. As a condition of eligibility, an applicant or a member shall apply for other benefits as required under 42 CFR 435.608 as of October 1, 2006, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- E. As a condition of eligibility, an applicant or a member shall cooperate with the assignment of rights under R9-22-1404. If the applicant or member receives medical care and services for which a first or third party is or may be liable, the applicant or member shall cooperate with the Department and the Administration in identifying and providing information to assist the Department and the Administration in pursuing any first or third party who is or may be liable to pay for medical care and services.
- F. As a condition of eligibility of a child whose parent, legal representative, or other legally responsible adult applies for AHCCCS medical coverage on behalf of the child, the individual who applies for the child shall cooperate with the Department to establish paternity and obtain medical support or other payments as provided in A.R.S. § 46-292(C). However, a pregnant woman under A.R.S. § 36-2901(6)(a)(ii) is not required to provide the Department with information regarding paternity or medical support from a father of a child born out of wedlock.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### R9-22-1409. Withdrawal of Application

- A. An applicant may withdraw an application at any time before the Department completes an eligibility determination by making an oral or written request for withdrawal to the Department and stating the reason for withdrawal.
- B. If an applicant orally requests withdrawal of the application, the Department shall document the:
  1. Date of the request,
  2. Name of the applicant for whom the withdrawal applies, and
  3. Reason for the withdrawal.
- C. An applicant may withdraw an application in writing by:
  1. Completing a Department-approved voluntary withdrawal form; or



2. Submitting a written, signed, and dated request to withdraw the application.
- D.** The effective date of the withdrawal is the date of the application.
- E.** If an applicant requests to withdraw an application, the Department shall:
  1. Deny the application, and
  2. Notify the applicant of the denial following the notice requirements under R9-22-1413.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1410. Department Responsibilities

- A.** The Department shall provide during the application process to the applicant or member information explaining the requirements to:
  1. Cooperate with DCSE in establishing paternity and enforcing medical support, except in circumstances when good cause under 42 CFR 433.147 exists for not cooperating;
  2. If applicable, establish good cause for not cooperating with DCSE in establishing paternity and enforcing medical support;
  3. Report a change listed in R9-22-1408(C)(3) no later than 10 days from the date the applicant or member knows of the change;
  4. Send to the Department any medical support payments received through a Title IV-D court order; and
  5. Cooperate with the Department's and Administration's assignment of rights and securing payments received from any liable party for a member's medical care.
- B.** At initial application or eligibility review a Department representative shall:
  1. Offer to help the applicant or member to complete the application form and to obtain required verification;
  2. Provide the applicant or member with information explaining:
    - a. The eligibility and verification requirements for AHCCCS medical coverage,
    - b. The requirement that the applicant or member obtain and provide a SSN to the Department,
    - c. How the Department uses the SSN,
    - d. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES),
    - e. The applicant and member's right to appeal an adverse action under R9-22-1441,
    - f. The assignment of rights under operation of law as provided in A.R.S. § 36-2903,
    - g. That the Department will use any information provided by the member to complete data matches with potentially liable parties,
    - h. The eligibility review process,
    - i. The program coverage and the types of services available under each program,
    - j. The AHCCCS pre-enrollment process,
    - k. Availability of continued AHCCCS medical coverage under R9-22-1427,

- l. That the Department will use the Systematic Alien Verification for Entitlements (SAVE) process to verify eligible alien status, and
- m. That the Department will help the applicant or member obtain necessary verification if the applicant or member asks for help;
3. Provide information regarding the penalties for perjury and fraud printed on the application;
4. Review any verification items provided by the applicant or member and inform the member of any additional verification items and time-frames within which the applicant or member shall provide information to the Department;
5. Explain to the applicant or member the applicant's and member's responsibilities under R9-22-1408;
6. Provide information regarding all reporting requirements and explain to the applicant or member that the applicant or member may lose the earned income disregards under R9-22-1420 if the applicant or member fails to timely report earned income changes.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### R9-22-1411. Withdrawal from AHCCCS Medical Coverage

- A.** A member may withdraw from AHCCCS medical coverage at any time by giving oral or written notice of withdrawal to the Department. The member or the member's legal or authorized representative shall provide the Department with:
  1. The reason for the withdrawal,
  2. The date the notice is effective, and
  3. The name of the member for whom AHCCCS medical coverage is being withdrawn.
- B.** The Department shall discontinue eligibility for AHCCCS medical coverage for all family members if the notice of withdrawal does not identify a specific person.
- C.** The Department shall notify the member of the discontinuance as required by R9-22-1415.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1412. Verification of Eligibility Information

- A.** An applicant or a member has the primary responsibility to provide the Department with information necessary to verify eligibility and complete the determination of eligibility at the time of initial application, when a change in circumstances occurs that may affect eligibility, or at the eligibility review under R9-22-1414. With the exception of subsection (B), the applicant or member shall use the following types of documents, in the following order, to verify information:
  1. First, hard copy verification: written evidence originating from an agency, organization, or an individual with actual knowledge of the information;

2. Second, a written record of a collateral contact: a verbal statement from a representative of an agency or organization, or an individual with actual knowledge of the information; and
3. Third, the applicant's or member's written statement, to be used only if:
  - a. Verification under subsections (A)(1) and (A)(2) is not available, and
  - b. The statement is not inconsistent with other information.
- B.** The Department shall not accept any form of verification other than hard copy verification for:
  1. SSN;
  2. Legal alien status;
  3. Proof of alien sponsor under R9-22-1425, if applicable;
  4. Relationship, when questionable; and
  5. Citizenship, when questionable.
- C.** The Department shall only accept hard copy verification or a collateral contact for verification of pregnancy and amounts billed for the care of a dependent child or incapacitated adult.
- D.** The Department shall provide an applicant or member at least 10 days from the date of a written request for information to provide required verification. The Department may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1413. Time-frames, Approval, Discontinuance, or Denial of an Application**

- A.** Application processing time. The Department shall complete an eligibility determination under 42 CFR 435.911 within 45 days after the application date under R9-22-1406 unless:
  1. The applicant is pregnant. The Department shall complete an eligibility determination for a pregnant woman within 20 days after the application date unless additional information is required to determine eligibility; or
  2. The applicant is in a hospital as an inpatient at the time of application. Within seven days of the Department's receipt of a signed application the Department shall complete an eligibility determination if the Department does not need additional information or verification to determine eligibility.
- B.** Approval. If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Department shall approve the application and provide the applicant with an approval notice. The approval notice shall contain:
  1. The name of each approved applicant,
  2. The effective date of eligibility as defined in R9-22-1416 for each approved applicant,
  3. The reason and the legal citations if a member is approved for only emergency medical services, and
  4. The applicant's right to appeal the decision under R9-22-1441(A).
- C.** Denial. If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Department shall

deny the application and provide the applicant with a denial notice. The denial notice shall contain:

1. The name of each ineligible applicant,
  2. The specific reason why the applicant is ineligible,
  3. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard,
  4. The legal citations supporting the reason for the ineligibility,
  5. The location where the applicant can review the legal citations,
  6. The date of the application being denied; and
  7. The applicant's right to appeal the decision and request a hearing.
- D.** The Department shall reopen an application or reinstate eligibility of a member when any of the following conditions are met:
1. The denial or discontinuance of eligibility was due to an administrative error,
  2. The discontinuance of eligibility was due to noncompliance with a condition of eligibility and the applicant or member complies prior to the effective date of the discontinuance,
  3. The member informs the Department of a change of circumstances prior to the effective date of the discontinuance, that would allow for continued eligibility, or
  4. Following a discontinuance the member requests and is eligible for continuation of medical coverage pending an appeal under R9-22-1441.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### **R9-22-1414. Review of Eligibility**

- A.** Except as provided in subsection (B), the Department shall complete a review of each member's continued eligibility for AHCCCS medical coverage at least once every 12 months.
- B.** The Department shall complete a review of eligibility for a:
  1. Pregnant woman determined eligible under R9-22-1428(2) following the termination of her pregnancy,
  2. Non-pregnant member approved only for Federal Emergency Services at least once in a six-month period,
  3. Member approved for the MED program under R9-22-1435 through R9-22-1440 before the end of the six-month eligibility period,
  4. Any time there is a change in a member's circumstance that may affect eligibility.
- C.** If a member continues to meet all eligibility requirements and conditions of eligibility, the Department shall authorize continued eligibility and notify the member of continued eligibility. If the member continues to be eligible for Federal Emergency Services, the notice shall state that the continued eligibility is for Federal Emergency Services only.
- D.** The Department shall discontinue eligibility and notify the member of the discontinuance under R9-22-1415 if the member:
  1. Fails to comply with the review of eligibility,
  2. Fails to comply with the requirements and conditions of eligibility under this Article without good cause under 42 CFR 433.148, or

3. Does not meet the eligibility requirements.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1415. Notice of Adverse Action

- A. Notice requirement. If a member fails to meet an eligibility requirement or condition of eligibility under this Chapter, the Department shall provide the member a Notice of Adverse Action no later than 10 days before the effective date of the suspension, reduction, or discontinuance.
- B. The Department shall mail a Notice of Adverse Action to a member to discontinue eligibility no later than the effective date of action if the Department:
  1. Receives a request to withdraw under R9-22-1411,
  2. Receives verification that the member is ineligible under R9-22-1402,
  3. Has documented information confirming the death of a member,
  4. Receives returned mail with no forwarding address from the post office and the member's whereabouts are unknown, or
  5. Verifies that the member has been approved for Medicaid by another state.
- C. The Department shall ensure that the Notice of Adverse Action contains:
  1. The name of each ineligible member,
  2. The specific reason why the member is ineligible,
  3. The income and resource calculations compared to the income or resource standards when the reason for the discontinuance is due to the member's income or resources exceeding the applicable standard,
  4. The legal citations supporting the reason for ineligibility,
  5. The location where the member can review the legal citations,
  6. The date the discontinuance is effective, and
  7. The member's appeal rights and right to continued medical coverage pending appeal under R9-22-1441.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1416. Effective Date of Eligibility

- A. Except as provided in subsections (B) and (C), the effective date of eligibility is the first day of the month that the applicant files an application if the applicant is eligible that month, or the first day of the first eligible month following the application month except for:
  1. The MED program under R9-22-1439, and
  2. Eligibility for a newborn under R9-22-1429.
- B. The effective date of eligibility for an applicant who moves into Arizona during the month of application is the date Arizona residency is established.
- C. The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1417. Social Security Number

- A. As a condition of eligibility, an applicant or a member shall furnish a SSN under 42 CFR 435.910 and 435.920.
- B. A person who is not able to legally obtain a SSN is not required to furnish a SSN.
- C. The Department shall grant an applicant until the first review of eligibility to provide a SSN if the applicant is cooperating with the Department to obtain a SSN.
- D. If an applicant cannot recall the applicant's SSN or has not been issued a SSN, the Department shall assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1418. State Residency

An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 as of November 21, 1990, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Department shall not consider an alien who does not have immigrant status under 8 U.S.C. 1101(a)(15) to be a resident.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1419. Citizenship and Immigrant Status

- A. An applicant or a member is not eligible for full services under Article 2 of this Chapter, unless the applicant or member is a citizen of the United States or is a qualified alien under A.R.S. § 36-2903.03(B) or meets the requirements of A.R.S. § 36-2903.03(C).
- B. The Department shall use the Systematic Alien Verification for Entitlements (SAVE) process to verify legal alien status.
- C. An applicant or member is eligible for emergency medical services under R9-22-217 if the applicant or member is either a qualified alien or noncitizen and:
  1. Meets all other eligibility requirements except those in subsection (A), and
  2. Is eligible under A.R.S. § 36-2901(6)(a)(i), (ii), or (iii).

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7

A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1419.01. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1419.02. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1419.03. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1419.04. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1420. Income Eligibility Criteria**

**A.** Evaluation of income. In determining eligibility, the Department shall evaluate the following types of income received by a person identified in subsection (B):

1. Earned income, including in-kind income, before any deductions. For purposes of this Section, in-kind income means room, board, or provision for other needs in exchange for work performed. The person identified in subsection (B) shall ensure that the provider of the in-kind income establishes and verifies the monetary value of the item provided. The provider may be, but is not limited to:
  - a. A landlord who provides all or a portion of rent or utilities in exchange for services;
  - b. A store owner who gives goods such as groceries, clothes, or furniture in exchange for services; or
  - c. An individual who trades goods such as a car, tools, trailer, building material, or gasoline in exchange for services;
2. Self-employment income under R9-22-1424, including gross business receipts minus business expenses; and
3. Unearned income, including deemed income under R9-22-1425 from the sponsor of a non-citizen applicant.

**B.** A person whose income is counted. The Department shall include the income of the following persons under Section 1902(a)(17) of the Act if living with the applicant unless the person is a SSI cash recipient:

1. Applicant;
2. Applicant's parent if the applicant is an unmarried dependent child who is less than 18 years old;
3. Applicant's spouse;

4. A sponsor under 8 CFR 213a.1 of a person meeting the qualified alien requirements under A.R.S. § 36-2903.03 and the sponsor's spouse; and
5. A non-parent caretaker relative and spouse, as allowed under R9-22-1427, and their unmarried minor children if applying as a family, including a dependent child living with a caretaker relative.

**C.** Income exclusions. The Department shall not count the following income:

1. Agent Orange settlement fund payments;
2. AmeriCorps Network Program benefits;
3. Burial benefits dispersed solely for burial expenses;
4. Cash contributions from agencies or organizations other than the Department or the Administration if the contributions are not intended to cover the following items:
  - a. Food;
  - b. Rent or mortgage payments for shelter;
  - c. Utilities;
  - d. Household supplies such as bedding, towels, laundry, cleaning, and paper supplies;
  - e. Public transportation fares for personal use;
  - f. Basic clothing or diapers; or
  - g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
5. Disaster assistance provided under the Federal Disaster Relief Act, disaster assistance organizations, or comparable assistance provided by state or local governments;
6. Educational grants or scholarships funded by the United States Department of Education or from a Veterans Education assistance program or the Bureau of Indian Affairs student assistance program;
7. Energy assistance that is provided:
  - a. Either in cash or in-kind by a government agency or municipal utility, or
  - b. In-kind by a private nonprofit organization;
8. Earnings from high school on-the-job training programs;
9. Earned income of a dependent child who is a student enrolled and attending school at least half-time as defined by the institution;
10. Fair Labor Standard Act supplemental payment;
11. Food stamp benefits;
12. Foster care maintenance payments intended for a child who is not included in the family or Medical Expense Deduction (MED) unit;
13. Funds set aside in an Individual Development Account under A.A.C. R6-12-404;
14. Governmental rent and housing subsidies;
15. Income tax refunds, including any earned income tax credit;
16. Loans from a private person or a commercial or educational institution if there is a written agreement for repayment of the loan;
17. Nonrecurring cash gifts that do not exceed \$30 per person in any calendar quarter;
18. Payments made from a fund established by the Susan Walker v. Bayer Corporation class action lawsuit or the Ricky Ray Hemophilia Relief Fund Act of 1998;
19. Radiation exposure compensation payments;
20. Reimbursement for work-related expenses that do not exceed the actual expense amount;
21. Reimbursement for Job Opportunities and Basic Skills (JOBS) Program training-related expenses;
22. Reparation and restitution payments under Section 1902(r) of the Act;
23. SSI designated account and interest earned on the account;

24. Temporary Assistance for Needy Families (TANF) or SSI cash assistance payment;
  25. Vendor payment made by an organization or person who is not a member of the family or MED unit, to a third party to cover family expenses;
  26. Volunteers In Service To America (VISTA) income that does not exceed the state or federal minimum wage;
  27. Vocational rehabilitation program payments made as reimbursement for training-related expenses, subsistence and maintenance allowances, and incentive payments that are not intended as wages;
  28. Women, Infants, and Children (WIC) benefits; or
  29. Any other income specifically excluded under 20 CFR 416 Appendix to Subpart K, as of June 6, 1997, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- D.** Special income provision for child support. The Administration or Administration's designee shall consider child support to be income of the child for whom the support is intended and count the child support income received after deducting \$50 per child receiving child support income from the monthly amount.
- E.** Determining income for a month.
1. Calculating monthly income. The Administration or Administration's designee shall calculate monthly income under R9-22-1421 through R9-22-1426,
  2. The Administration or Administration's designee shall deduct the applicable disregards and deductions to which a person is entitled for the month.
- F.** Earned income disregards.
1. General. The Department shall apply the earned income disregards to each employed person's gross earnings.
  2. Disregards. The Department shall apply the following method to calculate the amount of the countable earned income under subsection (A):
    - a. Subtract a \$90 cost of employment (COE) allowance from the gross amount of earned income for each person whose earned income is counted;
    - b. Subtract an amount billed for the care of each dependent child or incapacitated adult member who is the responsibility of the person whose income is counted, if the care is for the purpose of allowing the person to work. If more than one person in the household is responsible for and billed for the care of a dependent child the disregard may be split between the wage earners to the benefit of the family, but shall not exceed the maximum disregards as follows:
      - i. A maximum of \$200 for each child under age two and \$175 for each other dependent for a wage-earner employed full-time (86 or more hours per month); and
      - ii. A maximum of \$100 for each child under age two, and \$88 for each other dependent for a wage earner employed part-time (less than 86 hours a month).
  3. Loss of disregards. The Department shall not apply the earned income disregards if the member fails to report to the Department a change in earned income within 10 days from the date the change becomes known to the member. The change report to the Department shall be postmarked no later than the 10th day from the date the change becomes known.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1421. Income Eligibility**

- A.** A person is eligible under this Article unless the person's monthly income exceeds the appropriate Federal Poverty Level (FPL) listed in R9-22-1427 and R9-22-1428. A person is eligible under R9-22-1437 unless the person's income during the period defined in R9-22-1437(C) exceeds the FPL under R9-22-1437(B).
- B.** The Administration or Administration's designee shall consider the following factors when determining the income period to use to determine monthly income:
1. Type of income,
  2. Frequency of income,
  3. If source of income is new or terminated, or
  4. Income fluctuation
- C.** Definitions.
1. "Monthly income" means the gross countable income received or projected to be received during the month or the monthly equivalent.
  2. "Monthly equivalent" means a monthly countable income amount established by averaging, prorating, or converting a person's income.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1422. Methods for Calculating Monthly Income**

- A.** Projecting income.
1. Description. Projecting income is a method of determining the amount of income that a person will receive.
  2. Calculation. The Department shall project income by:
    - a. Converting income to a monthly equivalent,
    - b. Using unconverted income, or
    - c. Prorating income to determine a monthly equivalent.
  3. Exclusion. When calculating projected monthly income, the Administration or Administration's designee shall exclude an unusual variation in income under R9-22-1424(E), except for a month in which the variation is anticipated to occur.
- B.** Averaged income.
1. Description. Averaging income proportionally distributes the person's income received on a regular basis.
  2. Calculation. To average income, the Administration or Administration's designee shall add the amount of the income and divide by the total number of pay periods. If the amount of income received per pay period fluctuates, and the fluctuation is expected to continue, the Administration or designee shall:
    - a. Use the averaged weekly or bi-weekly amounts to convert weekly or bi-weekly income to a monthly equivalent;
    - b. Use the averaged monthly or semi-monthly amounts to project monthly income; and

- c. Use the averaged hours worked and multiply the average by the current rate of pay. If there is a change in the rate of pay, use the new rate of pay when calculating projected income under subsection (A).
- C. Prorated income.
  - 1. Description. Prorated income evenly distributes a person's income over the period the income is intended to cover to calculate a monthly equivalent.
  - 2. Calculation. To prorate income, the Administration or designee shall divide the total amount of the person's income received during the period by the number of months that the income is intended to cover.
- D. Converted income.
  - 1. Description. Converted income is income received weekly or biweekly that is changed to a monthly equivalent.
  - 2. Calculation.
    - a. The Administration or designee shall average the weekly or bi-weekly income amounts before converting to the monthly equivalent if the person's past income fluctuates and the fluctuation is expected to recur.
    - b. To convert income paid weekly to a monthly equivalent, the Administration or designee shall multiply the weekly average by 4.3 weeks.
    - c. To convert income paid bi-weekly to a monthly equivalent, the Administration or designee shall multiply the bi-weekly average by 2.15 weeks.
- E. Unconverted income.
  - 1. Description. Unconverted income is the actual amount of income received or projected to be received during a month.
  - 2. Calculation. The Administration or designee shall sum the actual amount of income received or projected to be received during a month.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income**

- A. Monthly income. If income is received monthly or in a lump sum, the Administration or designee shall use the unconverted method for calculating monthly income.
  - 1. Lump sum means a nonrecurring payment that serves as a complete payment.
  - 2. Lump sum payments include but are not limited to: rebates or credits; inheritances; insurance settlements; and payments for prior months from such sources as Social Security, Veterans Administration, Railroad Retirement, child support arrearages, or other benefits.
  - 3. A lump sum payment may include a portion intended for the current month.
- B. Weekly income. If income is received weekly, the Administration or designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- C. Bi-weekly income. If income is received bi-weekly, the Administration or designee shall convert the income to a monthly equivalent under R9-22-1422(D).

- D. Semi-monthly or daily income. If income is received semi-monthly or daily, the Administration or designee shall use the unconverted method for calculating monthly income under R9-22-1422(E).
- E. Bimonthly, quarterly, semi-annual, or annual income. If income is received bimonthly, quarterly, semi-annually, or annually, the Administration or designee shall prorate the income received or projected to be received under R9-22-1422(C).

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income**

- A. New income.
  - 1. Description. New income is income received from a new source during the first calendar month that the income is received from the source.
  - 2. Calculating monthly income.
    - a. If a full month's income is received, the Administration or Administration's designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
    - b. If less than a full month's income is received, the Administration or Administration's designee shall use the unconverted method to calculate the monthly income.
- B. Terminated income.
  - 1. Description. Terminated income is income received during the last calendar month that income is received from a source when no more income is expected to be received from the source.
  - 2. Calculating monthly income.
    - a. If a full month's income is received, the Administration or Administration's designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
    - b. If less than a full month's income is received, the Administration or Administration's designee shall use the unconverted method to calculate the monthly income.
- C. Break in income.
  - 1. Description. A break in income is a break in established frequency of income of one calendar month or more.
  - 2. Calculating monthly income.
    - a. If a full month's income is received, the Administration or Administration's designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
    - b. If less than a full month's income is received, the Administration or Administration's designee shall use the unconverted method to calculate the monthly income.
- D. Contract income.
  - 1. Description. Contract income is income a person earns under a contract or other legal document that specifies a length of time the contract or legal document covers, the amount of income to be paid, and the frequency of payment.
  - 2. Calculating monthly income.

- a. The Administration or designee shall calculate the monthly income based on the frequency of payment if income is paid more frequently than monthly.
  - b. The Administration or designee shall prorate over the period of time specified by the contract if income is paid monthly or less frequently.
- E. Unusual variation in the amount of income.**
  - 1. Description. Unusual variation is an amount of income that is different from the established amount received and is not projected to continue or recur.
  - 2. Calculating monthly income.
    - a. When calculating income for the month in which an unusual variation in income occurs, the Administration or designee shall include the unusual variation in the income calculation.
    - b. When an unusual variation in income occurs during the month, the Administration or Administration's designee shall use the converted method for calculating monthly income if income is received weekly or bi-weekly.
    - c. When projecting income for the months following the month in which the unusual variation occurs, the Administration or designee shall exclude the unusual variation in income from the income calculation.
- F. Self-employment income.**
  - 1. Description. Self-employment income is income a person earns from the person's own trade or business less allowable expenses.
  - 2. Calculating monthly income. The Administration or Administration's designee shall use the following methods in the following order:
    - a. When the self-employed person filed a tax return for the prior year and the person states that the current income is the same, the Administration or Administration's designee shall prorate the income under R9-22-1422.
    - b. When the self-employed person did not file a tax return for the prior year or states that the current income is not the same, the Administration or Administration's designee shall:
      - i. Use the person's business ledger or other records to verify the current income received, less allowable expenses; and
      - ii. Use the appropriate method described in R9-22-1423 to calculate the monthly income.
    - c. When the self-employed person did not file a tax return or keep business records of the income received and expense incurred during the income period, the Administration or Administration's designee:
      - i. Shall use the person's written statement to verify income received,
      - ii. Shall not deduct incurred expenses from the income without hard-copy verification of the expense, and
      - iii. Shall use the appropriate method described in R9-22-1423 to calculate the monthly income.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1425. Sponsor Deemed Income**

- A.** The Administration or Administration's designee shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant, whether or not the income is available, to the non-citizen applicant unless exempt under R9-22-1426.
- B.** Counting the income from a sponsor.
  - 1. This Section applies to non-citizens applicants who:
    - a. Are Lawful Permanent Residents under 8 CFR 101.3;
    - b. Applied for Lawful Permanent Resident Status on or after December 19, 1997;
    - c. Are sponsored by an individual who signed a USCIS I-864 Affidavit of Support; and
    - d. Are eligible for full AHCCCS medical coverage.
  - 2. Sponsor deemed income shall be considered the income of the non-citizen applicant only.
  - 3. The Administration shall not use the provisions of this Section and R9-22-1426 when:
    - a. The applicant becomes a naturalized U.S. citizen;
    - b. The applicant qualifies for an exemption listed in R9-22-1426; or
    - c. The sponsor dies.
- C.** Determining income from a sponsor.
  - 1. For an applicant who is exempt under R9-22-1426(C) and (D), only cash contributions actually received from the sponsor are countable income to the applicant.
  - 2. For an applicant to whom the sponsor's income is deemed, the Department shall exclude any cash contributions received from the sponsor.
- D.** Calculation of income from a sponsor.
  - 1. The Department shall include the total gross income of the sponsor and the following individuals who live in the sponsor's household:
    - a. The sponsor's spouse,
    - b. The sponsor's dependent children, and
    - c. The sponsor's spouse's dependent children;
  - 2. The Department shall subtract the total gross income from 100% of the FPL for the sponsor's family size; and
  - 3. The amount calculated under subsections (D)(1) and (D)(2) represents the remaining amount deemed to the applicant from the sponsor.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1426. Exemptions from Sponsor Deemed Income**

- A.** An applicant shall provide proof to the Administration or designee when claiming an exemption from sponsor deemed income.
- B.** The Administration or designee shall grant an exemption from using a sponsor's income for a Lawful Permanent Resident applicant if the applicant:
  - 1. Entered the U.S. or applied for a visa or adjustment of status before December 19, 1997;
  - 2. Adjusted immigration status to Lawful Permanent Resident from status as a refugee or asylee;
  - 3. Qualifies only for Federal Emergency Services;
  - 4. Has a sponsor who signed an Affidavit of Support other than the USCIS Form I-864;
  - 5. Is the spouse or child of the sponsor and lives with the sponsor;

6. Is indigent as specified in subsection (C);
  7. Is a victim of domestic violence or extreme cruelty as specified in subsection (D); or
  8. Has acquired 40 qualified quarters of work credit based on earnings as specified in subsection (E).
- C.** The Administration or designee shall grant an exemption from sponsor deemed income for indigent applicants for a period of 12 months beginning with the application month. The Administration or designee shall redetermine indigent status at each eligibility renewal.
1. An applicant is indigent if all of the following are met:
    - a. The applicant does not reside with the applicant's sponsor;
    - b. The applicant does not receive free room and board; and
    - c. The applicant's total gross income including monies received from the sponsor and the value of any vendor payments received for food, utilities, or shelter does not exceed 100% of the FPL.
  2. The Administration shall send a notice to the Department of Homeland Security when approving an applicant who is exempt from sponsor deemed income due to indigency.
- D.** The Administration shall grant an exemption from sponsor deemed income for an applicant who is a victim of domestic violence or extreme cruelty under 8 CFR 204.2 for a period of 12 months beginning with the application month. The Administration shall redetermine the exemption status at each renewal.
1. The Administration considers an applicant to be a victim of domestic violence or extreme cruelty when all of the following are met:
    - a. The applicant is the victim, the parent of a child victim, or the child of a parent victim;
    - b. The perpetrator of the domestic violence or extreme cruelty was the spouse or parent of the victim or other family member related by blood, marriage or adoption to the victim;
    - c. The perpetrator was residing in the same household as the victim when the abuse occurred;
    - d. The abuse occurred in the United States;
    - e. The applicant did not participate in the domestic violence or cruelty; and
    - f. The victim does not currently live with the perpetrator.
  2. The applicant shall provide proof that the applicant or the applicant's child is a victim of domestic violence or extreme cruelty by presenting one of the following:
    - a. USCIS form I-360 Petition for Amerasian, Widow, or Special Immigrant;
    - b. USCIS form I-797 USCIS approval of the I-360 petition;
    - c. Reports or affidavits concerning the domestic violence or cruelty from police, judges, or other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, or other social service agency personnel;
    - d. Legal documentation, such as an order of protection against the perpetrator or an order convicting the perpetrator of committing an act of domestic violence or extreme cruelty that chronicles the existence of domestic violence or extreme cruelty;
    - e. Evidence that indicates that the applicant sought safe haven in a battered women's shelter or similar refuge because of the domestic violence or extreme cruelty against the applicant or the applicant's child; or
    - f. Photographs of the applicant or applicant's child showing visible injury.
- E.** The Administration shall grant an exemption from sponsor deemed income for an applicant who has reached 40 qualifying quarters of work credit.
1. The Administration or Administration's designee shall not count quarters credited after January 1, 1997 that were earned while the applicant was receiving any federal means-tested benefits.
  2. The Administration shall not count the 40 qualifying quarters of work credit unless the credited quarters are:
    - a. Quarters that the applicant worked;
    - b. Quarters worked by the applicant's spouse or deceased spouse during their marriage; or
    - c. Quarters worked by the applicant's parents when the applicant was under age 18.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1427. Eligibility for a Family**

- A.** A family unit with an eligible deprived dependent child is eligible for AHCCCS medical coverage when the requirements of this Section are met. A woman in her third trimester of pregnancy with no other dependent children is considered a family unit with a dependent child.
- B.** A family unit includes the following when living together:
1. A natural or adopted dependent child under age 18,
  2. A dependent child who is age 18 and:
    - a. A full-time student at a secondary school or attending a vocational or technical training school that includes shop practicum for at least 30 hours per week or does not include shop practicum and attendance is at least 25 hours per week, and
    - b. Reasonably expected to complete the education or training before age 19; and
  3. A natural or adoptive parent of a dependent child.
- C.** The Department shall include in the family unit, the spouse of the dependent child's parent if the spouse wants to apply for AHCCCS medical coverage. The Department shall include the spouse of the non-parent caretaker relative if:
1. The non-parent caretaker relative applies and is eligible, and
  2. The non-parent caretaker relative applies for the spouse.
- D.** The Department shall include in the family unit, a dependent child's non-parent caretaker relative if the non-parent caretaker relative wants to apply for AHCCCS medical coverage and:
1. Provides the dependent child with:
    - a. Physical care,
    - b. Support,
    - c. Guidance, and
    - d. Control; and
  2. The parent of a dependent child:
    - a. Does not live in the non-parent caretaker relative's home;
    - b. Lives with the non-parent caretaker relative but is also a dependent child; or
    - c. Lives with the non-parent caretaker relative but cannot function as a parent due to physical or mental impairment.



- E.** The Department shall not include a SSI-cash recipient in the family unit.
- F.** A child is considered a deprived dependent if deprived of parental support and care by:
1. Continued absence of a parent;
  2. Death of a parent;
  3. Disability of a parent, as determined by a healthcare practitioner;
  4. Unemployment or under-employment of a parent in a two-parent assistance unit under subsection (I).
- G.** Continued absence of a parent.
1. Continued absence under subsection (F) is established:
    - a. When absence of the parent from the home either interrupts or terminates the parent's functioning as a provider of support, physical care, or guidance for the child;
    - b. When absence of the parent from the house for a known or indefinite duration precludes relying on the parent for the present support or care of the child; or
    - c. When the parent's absence from the home is for a period of 30 days or more and for any reason other than those listed in subsection (G)(2).
  2. The Department shall not consider the following to be continued absence:
    - a. The parent is voluntarily absent to visit friends or relatives, to seek employment or maintain a job, or to attend school or training if the parent in the home and the absent parent are not separated;
    - b. The parent is absent due to active military duty;
    - c. The parents live in separate dwellings and the dwellings are considered part of a single home; or
    - d. One parent is absent from the home in order to allow the remaining family members to qualify for medical assistance.
- H.** Disability of a parent, as determined by a healthcare practitioner.
1. Disability is established if the parent or applicant provides a medical statement from a healthcare practitioner that includes:
    - a. A diagnosis of the parent's medical condition,
    - b. A finding that the parent has a physical or mental condition that prevents the parent from working, and
    - c. An opinion concerning the duration of unemployability or a date for re-evaluation of unemployability.
  2. Disability is established without further medical verification if the parent or applicant provides evidence that:
    - a. The Social Security Administration (SSA) has determined that the parent is eligible for Retirement, Survivors, Disability Insurance (RSDI) benefits due to blindness or disability;
    - b. The SSA has determined that the parent is eligible for Supplemental Security Income (SSI) due to blindness or disability;
    - c. The Veteran's Administration has determined that the parent has a 100% disability;
    - d. The parent's healthcare practitioner has released the parent from the hospital and imposed work restrictions for a specified recuperation period;
    - e. The parent's employer or physician has required the parent to terminate employment due to the onset of a disability and the healthcare practitioner has specified a recuperation period;
    - f. The parent's healthcare practitioner has determined that the parent is capable of employment only in a sheltered workshop under 26 U.S.C. 151(c)(5)(B), for a specified period of time, and the parent is so employed; or
    - g. A prior certification of the parent's disability by a healthcare practitioner is in the applicant's case record as maintained by the Department and is still valid to cover the period in which assistance is requested and will be received.
- I.** Unemployment or under-employment of a parent in a two-parent assistance unit.
1. A child is deprived if the primary wage earning parent is unemployed or underemployed and the two-parent assistance unit meets the following requirements:
    - a. The child's natural or adoptive mother and father both reside with the child, and
    - b. Neither parent meets the provisions of subsection (F)(3).
  2. "Underemployment" means the parent's earned income combined with the assistance unit's other countable income does not exceed the income standards provided in subsection (J).
  3. "Primary wage earner" means the parent in a two-parent assistance unit who earned the greater amount of income in the 24-month period immediately preceding the month in which an application for assistance is submitted.
- J.** Income standard. A family unit is not eligible if the family unit's countable income exceeds 100 percent of the FPL adjusted annually for the family unit.
- K.** Continued medical coverage. An eligible member of the family unit under this Section is entitled to continued AHCCCS coverage for up to 12 months if eligible under subsection (K)(3)(a) and up to four months if eligible under subsection (K)(3)(b) if the family unit's income exceeds 100 percent of the FPL and the following conditions are met:
1. The family continues to include a dependent child;
  2. The family received AHCCCS medical coverage under this Section for three calendar months out of the most recent six months; and
  3. The loss of AHCCCS coverage under this Section is due to:
    - a. Increased earned income of the caretaker relative and the person is a member of the family unit in accordance with 42 U.S.C. 1396a(e)(1) and 42 U.S.C. 1396r-6, or
    - b. Increased spousal or child support and the family unit member meets requirements under 42 CFR 435.115(f).
- L.** An applicant may be added to the continued medical coverage of a family unit, under subsection (K)(3)(a), if the applicant did not reside with the family unit at the time continued medical coverage under this Section was determined and the applicant is:
1. The spouse or dependent child of the family unit receiving continued medical coverage, or
  2. The parent of a dependent child who is a member of the family unit receiving continued medical coverage.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1428. Eligibility for a Person Not Eligible as a Family**  
Income standards. A person who is not approved in a family unit under R9-22-1427 but meets all the eligibility requirements in the Article is eligible for AHCCCS medical coverage if countable income does not exceed the following percentage of the FPL:

1. 150 percent for a pregnant woman,
2. 140 percent for a child under one year of age,
3. 133 percent for a child age one through five years of age, or
4. 100 percent for all other persons.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**R9-22-1429. Eligibility for a Newborn**

A child born to a mother eligible for and receiving medical coverage under this Article, Article 15 of the Chapter, or 9 A.A.C. 28, is automatically eligible for AHCCCS medical coverage for a period not to exceed 12 months if the child continuously lives with the mother in the state of Arizona. Automatic eligibility begins on the child's date of birth and ends with the last day of the month in which the child turns age one. The Department shall conduct an informal review when the child is six months old to ensure the child resides with the mother in Arizona.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1430. Extended Medical Coverage for a Pregnant Woman**

- A. A pregnant woman who applies for and is determined eligible for AHCCCS medical coverage during the pregnancy remains eligible throughout the postpartum period.
- B. The postpartum period begins the day the pregnancy terminates and ends the last day of the month in which the 60th day following pregnancy termination.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1431. Family Planning Services Extension Program (FPEP)**

- A. A member who loses eligibility for AHCCCS medical coverage under R9-22-1430 due to the postpartum period ending and who has no other creditable coverage, as specified in 42 U.S.C. 300gg(c), may receive up to 24 months of family planning services as provided in this Section and A.R.S. § 36-2907.04.
- B. Review of eligibility.

1. The Department shall complete a review of each member's continued eligibility for FPEP at least once every 12 months.
2. If a member continues to meet all eligibility requirements, the Department shall authorize continued eligibility for the FPEP and notify the member of continued eligibility.
3. The Department shall discontinue eligibility and notify the member of the discontinuance under R9-22-1415 if the member:
  - a. Has income that exceeds 150 percent of the FPL at the time of the 12-month review,
  - b. Fails to comply with a review of eligibility under this subsection, or
  - c. Meets any of the criteria under subsection (D).
- C. Changes in the member's income after the initial or review eligibility determination shall not impact the member's eligibility during the following 12-month period.
- D. The Administration or its designee shall deny or terminate a member from FPEP under this Section if the member:
  1. Voluntarily withdraws from the program;
  2. Has whereabouts that are unknown;
  3. Fails to provide information to the Administration or the Administration's designee;
  4. Becomes an inmate of a public institution;
  5. Moves out-of-state;
  6. Has creditable coverage under 42 U.S.C. 300gg(c);
  7. Fails to meet the documentation requirements for U.S. citizenship or legal alien status under A.R.S. § 36-2903.03;
  8. Becomes eligible under 9 A.A.C. 22, 9 A.A.C. 28, or 9 A.A.C. 31 for full services under Article 2 of this Chapter;
  9. Becomes sterile; or
  10. Dies.
- E. The Administration or its designee shall not reinstate eligibility under this Section after the effective date of a discontinuance of eligibility unless the discontinuance is overturned on appeal or resulted from an administrative error.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 2633, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**R9-22-1432. Young Adult Transitional Insurance**

A person under the age of 21 who was in the custody of the Department of Economic Security under A.R.S. Title 8, Chapter 5 or Chapter 10 on the person's 18th birthday is eligible for AHCCCS medical coverage under A.R.S. § 36-2901(6)(a)(iii).

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1433. Special Groups for Children**

The Administration shall provide AHCCCS medical coverage to children eligible for Title IV-E adoption subsidy or Title IV-E foster care under 42 CFR 435.145 and children eligible for state adoption subsidy under 42 CFR 435.227.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1434. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4).

**R9-22-1435. Eligibility for a Person With Medical Expenses Whose Income is Over 100 Percent FPL**

An applicant who is not eligible for AHCCCS medical coverage due to excess income may become AHCCCS eligible by deducting medical expenses from the applicant's income. This coverage is called Medical Expense Deduction (MED).

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1436. MED Family Unit**

- A.** For the purpose of this Section, a child is an unmarried person under age 18.
- B.** The Department shall consider each of the following to be a family when living together:
  - 1. A parent and the parent's children;
  - 2. A married couple without children;
  - 3. A married couple and the children of either or both spouses;
  - 4. Unmarried parents who live with at least one child in common, and the parents' other children, whether in common or not; and
  - 5. A person without children.
- C.** If an applicant is pregnant, the family unit includes the number of unborn children.
- D.** A child of the children included in subsections (B)(1), (B)(3), or (B)(4) is considered part of the family unit when living together.
- E.** The Department shall not include a SSI-cash recipient in the MED family unit even if the SSI-cash recipient is a parent, spouse, or child.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by

final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1437. MED Income Eligibility Requirements**

- A.** Income exclusions. The exclusions in R9-22-1420(C) apply to the MED family unit.
- B.** Income standard.
  - 1. The Department shall divide the annual FPL for the MED family unit that is in effect during each month of the income period by 12 to determine the monthly FPL.
  - 2. The Department shall add the monthly FPLs for the income period and multiply the resulting amount by 40 percent.
  - 3. Changes to the annual FPL are implemented in April of each year.
- C.** Income period. The income period is the month of application and the next two months. The Department shall add together the three months' income to establish the MED family unit's income amount.
- D.** Medical expense deduction period. The medical expense deduction period is a three-month period consisting of:
  - 1. For a new application, the month before the application month, the month of application, and month following the application month; or
  - 2. For a MED eligibility review, the last month of the prior MED eligibility period and the following two months.
- E.** The Department shall calculate the amount of countable monthly income as follows:
  - 1. Subtract a \$90 cost of employment allowance from the gross amount of earned income for each person whose earned income is counted;
  - 2. Disregard from the remaining earned income an amount billed by the provider for the care of each dependent child under age 18 or incapacitated adult member of the MED family unit if the care is for the purpose of allowing the person to work. If more than one person in the household is responsible for and billed for the care of a dependent child, the disregard may be split between the wage earners if splitting the disregard is to the benefit of the family, but shall not exceed the maximum disregards as follows:
    - a. A maximum of \$200 for a child under age two and \$175 for other dependents for a wage-earner employed full-time (86 or more hours per month); and
    - b. A maximum of \$100 for a child under age two, and \$88 for other dependents for a wage earner employed part-time (less than 86 hours a month);
  - 3. Add the remaining earned income for each MED family member to the unearned income of all MED family members;
  - 4. Compare the MED family's unit countable income amount to the income standard in subsection (B). The difference is the amount of medical expenses the family shall incur during the medical expense deduction period to become eligible;
  - 5. Subtract allowable medical expense deductions that were incurred by:
    - a. A member of the MED family unit;
    - b. A deceased spouse or minor child of a MED family unit if this person would have been a member of the MED unit during the MED expense deduction period;
    - c. A person who was a minor child of a MED family unit member when the expense was incurred but who is no longer a minor child; or

- d. A minor child, including a child who is a runaway, who left home before the date of application to live with someone other than a parent; and
- 6. Compare the net MED family income to the income standard listed in subsection (B).
- F. The family is eligible if the net income in subsection (E)(6) does not exceed the income standard in subsection (B).

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1438. MED Resource Eligibility Requirements

- A. Including countable resources. The Department shall include the resources not excluded that belong to and are available to members of the family of a qualified alien under A.R.S. § 36-2903.03 and the sponsor and sponsor's spouse of a person who is a qualified alien.
- B. Ownership and availability. The Department shall evaluate the ownership of resources to determine the availability of resources to a person listed in subsection (A).
  - 1. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are available to each owner except if one of the owners refuses to sell. A consent to sale is not required if all owners are members of the MED family unit.
  - 2. Jointly owned resources with ownership records containing the word "or" between the owners' names are presumed to be available in full to each owner. The applicant or member may rebut the presumption by providing clear and convincing evidence of intent to establish a different type of ownership. If the presumption is rebutted, the resource is available to the owners:
    - a. Consistent with the intent of the owners, or
    - b. Based on each owner's proportionate net contribution if there is not clear and convincing evidence of a different allocation.
  - 3. The Department shall establish availability of a trust under 42 U.S.C. 1396p(d)(4)(A) or (C).
- C. Unavailability. The Department shall consider the following resources unavailable:
  - 1. Property subject to spendthrift restriction, such as:
    - a. Accounts established by the SSA, Veteran's Administration, or similar sources that mandate that the funds in the account be used for the benefit of a person not residing with the MED family unit; or
    - b. Trusts established by a will or funded solely by the income and resources of someone other than a member of the MED family unit.
  - 2. A resource being disputed in a divorce proceeding or probate matter;
  - 3. Real property located on a Native American reservation;
  - 4. A resource held by a conservator to the extent court-imposed restrictions make the resource unavailable to the applicant, member, or member of the family unit for:
    - a. Medical care,
    - b. Food,
    - c. Clothing, or
    - d. Shelter.
- D. Resource exclusion. The Department shall exclude the following resources from the calculation of resources under subsection (E):
  - 1. One burial plot for each person listed in R9-22-1436;
  - 2. Household furnishings and personal items that are necessary for day-to-day living;
  - 3. Up to \$1500 of the value of one prepaid funeral plan for each person listed in R9-22-1436 that specifically covers only funeral-related expenses as evidenced by a written contract;
- 4. The value of one motor vehicle regularly used for transportation. If the MED family unit owns more than one vehicle, the exclusion is applied to the vehicle with the highest equity value;
- 5. The value of a vehicle used to earn income and not used simply for transportation to and from employment;
- 6. The value of a vehicle in which a SSI-cash recipient has an ownership interest; and
- 7. The value of any vehicle used for medical treatment, employment, or transportation of a SSI-cash disabled child, and that is excluded by SSI for that reason.
- 8. Funds set aside in an Individual Development Account under 6 A.A.C. 12, Article 4; and
- 9. Any other resource specifically excluded by federal law.
- E. Calculation of resources. The Department shall determine the value of all household resources as follows:
  - 1. Calculate the total amount of countable liquid resources;
  - 2. Calculate the equity value of each countable non-liquid resource. The Department shall determine the equity value of a countable non-liquid resource by subtracting the amount of valid encumbrances on that resource from:
    - a. The market value of real property if there is no assessor's evaluation of the property,
    - b. The market value of real property if the assessor's value of the real property does not include the value of permanent structures on that property,
    - c. The assessor's full cash value if subsections (E)(2)(a) and (E)(2)(b) do not apply, and
    - d. The market value of a non-liquid resource that is not real property;
  - 3. Not assign an equity value to a resource that is less than zero; and
  - 4. Determine the MED family unit's resources by adding the totals determined in subsections (1) and (2).
- F. Resource standard to be eligible for MED. A person is not eligible for MED if the resources determined in subsection (E) exceed \$100,000 or if more than \$5,000 are liquid resources.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1439. MED Effective Date of Eligibility

- A. A MED family unit is eligible on the day the income and resource eligibility requirements are met but no earlier than the first day of the month of application. If the family unit meets the income requirements in the application month but does not meet the resource limit until the following month, the family unit's effective date of eligibility is the first day of the month following the month of application.
- B. The Department shall adjust the effective date of eligibility under subsection (A) to an earlier date if:
  - 1. A member presents verification of additional allowable medical expenses incurred on an earlier date during the medical expense deduction period that allow the member to meet the income requirements, and
  - 2. The member presents the verification within 60 days of approval of eligibility under this Section.
- C. The Department shall not adjust an effective date of eligibility more than one time per application.
- D. The Department shall adjust the effective date no later than 30 days after the end of the 60-day period under subsection (B)(2).
- E. The Department shall deny an application and provide the applicant a denial notice when the applicant does not meet the

MED requirements under this Article during the month of application or the month following the month of application.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1440. MED Eligibility Period

The Department shall approve eligibility for six months. Changes in circumstances do not affect eligibility for the first three months.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1441. Eligibility Appeals

- A. Adverse actions. An applicant or member may appeal by requesting a hearing from the Department concerning any of the following adverse actions:
  1. Complete or partial denial of eligibility under R9-22-1413;
  2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-1415;
  3. Delay in the eligibility determination beyond the timeframes under this Article;
  4. The imposition of or increase in a premium or copayment; or
  5. The effective date of eligibility.
- B. Notice of Adverse Action. The Department shall personally deliver or send, by regular mail, a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.
- C. Automatic change and hearing rights.
  1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
  2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1442. Cessation of MED Coverage

The Department shall not approve any individual or family who has applied on or after May 1, 2011 as eligible for MED coverage. With respect to any applications that are pending as of May 1, 2011, the Department shall not approve any individual or family as eligible for MED coverage who has not met all eligibility requirements prior to May 1, 2011.

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 1028, effective May 1, 2011 (Supp. 11-2).

#### R9-22-1443. Closing New Eligibility for Persons Not Covered under the State Plan

- A. Definition. For purposes of this Section, "AHCCCS Care" refers to the eligibility category that includes individuals encompassed within the expanded definition of "eligible person" under A.R.S. § 36-2901.01 and R9-22-1428(4), but who do not meet eligibility criteria for an optional or mandatory Title XIX coverage group described in the Arizona State Plan for Medicaid.
- B. General Rule. Except as provided by this Section, neither the Department nor the Administration shall approve an individual

for AHCCCS Care with an effective date of eligibility on or after July 8, 2011.

- C. Exception for pending applications. With respect to any applications that are pending as of July 8, 2011, the Department and the Administration shall approve any individual as eligible for AHCCCS Care who has met all eligibility requirements for AHCCCS Care during or after the month of application but prior to July 8, 2011, and has continuously met all eligibility requirements for AHCCCS Care since that date.
- D. Exception for children. The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
  1. Was determined eligible under the Arizona State Plan for Medicaid based on being under the age of 19;
  2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
  3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.
- E. Exception for KidsCare. The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
  1. Was determined eligible under 9 A.A.C. 31 based on being under the age of 19;
  2. Would otherwise be discontinued due to reaching the age of 19 on or after July 8, 2011, under subsection (B) of this Section; and
  3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 19.
- F. Exception for Young Adult Transitional Insurance (YATI). The Department and the Administration shall approve an individual as eligible for AHCCCS Care on or after July 8, 2011 who:
  1. Was determined eligible for YATI under R9-22-1432;
  2. Would otherwise be discontinued due to reaching the age of 21 on or after July 8, 2011 under subsection (A) of this Section; and
  3. Meets all eligibility requirements for AHCCCS Care on and after reaching age 21.
- G. Exception for certain SSI-MAO. The Department and the Administration shall approve as eligible for AHCCCS Care, on or after July 8, 2011, an individual who:
  1. Was determined eligible for AHCCCS Care; and
  2. Whose eligibility category is changed on or after June 28, 2011, from AHCCCS Care to eligibility based on R9-22-1501(A)(1) (SSI Medical Assistance Only) because the individual, at the time of the change in eligibility category, is age 65 or over, under the age of 65 with Medicare coverage, or who has been determined by ADHS to have a Serious Mental Illness; but who
  3. Subsequent to the change in eligibility category, is determined not to meet eligibility requirements under Article 15; but only if
  4. The individual meets all eligibility requirements for AHCCCS Care on and after the date the individual is determined not to meet eligibility requirements under Article 15.
- H. Exception for redeterminations. This Section does not prohibit the redetermination of an individual as eligible for AHCCCS Care on or after July 8, 2011, if the individual was determined eligible for AHCCCS Care prior to July 8, 2011 and has remained continuously eligible for AHCCCS Care since July 8, 2011 or the date on which the individual was determined eligible for AHCCCS Care under subsections (C), (D), and (E) of this Section.
- I. Discontinuance for other reasons. Nothing in this Section prohibits or restricts the Department or the Administration from

discontinuing AHCCCS Care for an individual who does not meet any other eligibility criteria set forth elsewhere in this Chapter including but not limited to discontinuance based on the individual's failure to verify eligibility information upon an application or redetermination.

- J. Review of anticipated expenditures. At least monthly, the Director shall review the most recent estimate of the anticipated expenditures for the remainder of the state fiscal year as compared to funds remaining in the appropriations made to the agency for the state fiscal year as well as any other known or reasonably anticipated sources of other funding. Based on that review the Director may, subject to approval by the Center for Medicare and Medicaid Services, re-open the AHCCCS Care program to new enrollment otherwise prohibited by this Section.
- K. At least 30 days prior to the effective date of any changes to eligibility for the AHCCCS Care program as described in this Section, public notice shall be provided via publication on the AHCCCS web site unless shorter notice is necessary to maintain a program that is reasonably anticipated to remain within available funding.

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 1345, effective July 8, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 2624, effective July 8, 2011 (Supp. 11-4).

### ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR DISABLED

#### R9-22-1501. General Information

- A. General. The Administration shall determine eligibility for AHCCCS medical coverage for the following applicants or members using the eligibility criteria and requirements in this Article:
  1. A person who is aged, blind, or disabled and does not receive SSI cash; and
  2. A person terminated from the SSI cash program under R9-22-1505.
- B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
  - “Aged” means a person who is 65 years of age or older as specified in 42 U.S.C. 1382c(a)(1)(A).
  - “Blind” means a person who has been determined blind by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(2).
  - “Disabled” means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E).
- C. Confidentiality. The Administration shall maintain the confidentiality of an applicant's or member's records and limit the release of safeguarded information under R9-22-512.
- D. Application process.
  1. A person may apply for AHCCCS medical coverage by submitting a signed application to any Administration office or outstation location under R9-22-1406.
  2. The provisions in R9-22-1406(B), (C), and (E) apply to this Section.
  3. The application date is the date a signed application is received at any Administration office or outstation location approved by the Director.

4. An applicant who files an application may withdraw the application, either orally or in writing. If an applicant withdraws an application, the Administration shall send the applicant a denial notice under subsection (G).
  5. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants.
  6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.
  7. The Administration shall complete an eligibility determination on an application filed on behalf of a deceased applicant, if the application is filed in the month of the applicant's death.
- E. Redetermination of eligibility for a person terminated from the SSI cash program.
    1. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program until a redetermination of eligibility under subsection (E)(2) is completed.
    2. Coverage group screening. The Administration shall screen a person for eligibility under any coverage group under A.R.S. §§ 36-2901(6)(a)(i), (ii), (iii), (iv), and (v) and 36-2934.
      - a. If a person files an application for Arizona Long-Term Care System (ALTCS) coverage, the Administration shall determine eligibility under 9 A.A.C. 28, Article 4.
      - b. If an applicant or member is aged, blind, or disabled, but not in need of long-term care services, the Administration shall determine eligibility under this Article.
      - c. For all other persons, the Administration shall refer the applicant's case to the Department for an eligibility decision under Article 14.
    3. Eligibility decision.
      - a. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice as under subsection (G) informing the applicant that AHCCCS medical coverage is approved.
      - b. If a person is ineligible, the Administration shall send a notice as under subsection (G) to deny AHCCCS medical coverage.
  - F. Eligibility effective date. Eligibility is effective on the first day of the month that all eligibility requirements are met, but no earlier than the month of application.
  - G. Notice for approval or denial. The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the intended action, and:
    1. If approved, the notice shall contain the effective date of eligibility.
    2. If approved under FESP, the notice shall also contain:
      - a. The emergency services certification end date,
      - b. A statement detailing the reason for the denial of full services,
      - c. The legal authority supporting the decision,
      - d. Where the legal authority supporting the decision can be found,
      - e. An explanation of the right to request a hearing, and
      - f. The date by which a request for hearing shall be received by the Administration.
    3. If denied, the notice shall contain:
      - a. The effective date of the denial;

- b. The reason for the denial, including specific financial calculations and the financial eligibility standard, if applicable;
  - c. Legal authority supporting the decision;
  - d. Where the legal authority supporting the decision can be found;
  - e. An explanation of the right to request a hearing; and
  - f. The date by which a request for hearing shall be received by the Administration.
- H. Reporting and verifying changes.**
  - 1. An applicant or a member shall report to the Administration the following changes for the applicant or member, the applicant's or member's spouse, and the applicant or member's dependent children:
    - a. Change of address;
    - b. Change in the household's members;
    - c. Change in income;
    - d. Death;
    - e. Change in marital status;
    - f. Change in school attendance;
    - g. Change in Arizona state residency; and
    - h. Any other change that may affect the member's or applicant's eligibility.
  - 2. A member shall report to the Administration the following changes:
    - a. Admission to a penal institution,
    - b. Change in U.S. citizenship or immigrant status,
    - c. Receipt of a Social Security number, and
    - d. Change in first- or third-party liability that may contribute to the payment of all or a portion of the person's medical costs.
  - 3. A person other than a member or an applicant who reports a change to the Administration either orally or in writing shall include the:
    - a. Name of the affected applicant or member;
    - b. Description of the change;
    - c. Date the change occurred;
    - d. Name of the person reporting the change; and
    - e. Social Security or case number of the applicant or member, if known.
  - 4. An applicant or a member shall provide verification of changes if requested by the Administration.
  - 5. An applicant or a member shall report anticipated changes in eligibility to the Administration as soon as the person knows that the change will occur.
  - 6. An applicant or a member shall report an unanticipated change to the Administration within 10 days following the date the change occurred.
- I. Processing of changes and redeterminations.** If a member receives AHCCCS medical coverage under subsection (A), the Administration shall redetermine the member's eligibility at least once every 12 months or more frequently when changes occur that may affect eligibility.
- J. Actions that may result from a redetermination or change.** In processing a redetermination or change, the Administration shall determine whether there should be:
  - 1. No change in eligibility,
  - 2. Discontinuance of eligibility if a condition of eligibility is no longer met, or
  - 3. A change in the program under which a person receives AHCCCS medical coverage.
- K. Notice of discontinuance.**
  - 1. Contents of notice. The Administration shall issue a notice when it takes action to discontinue a member's eligibility. The notice shall contain the following information:
    - a. A statement of the action that is being taken;
    - b. The effective date of the action;
    - c. The reason for the discontinuance, including specific financial calculations and the financial eligibility standard if applicable;
    - d. The legal authority that supports the action proposed by the Administration;
    - e. Where the legal authority supporting the decision can be found;
    - f. An explanation of the right to request a hearing; and
    - g. The date by which a hearing request shall be received by the Administration and the right to continue medical coverage pending appeal.
- 2. Advance notice of changes in eligibility. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (K)(3), the Administration shall issue an advance notice when an adverse action is taken to suspend, reduce or discontinue eligibility.
- 3. Exceptions from advance notice. The Administration shall issue a notice to a member to discontinue eligibility no later than the effective date of the action if:
  - a. The member provides to the Administration a clearly written statement, signed by that member, that:
    - i. Services are no longer wanted; or
    - ii. Gives information that requires a discontinuance or reduction of services and indicates that the member understands that this is the result of supplying the information;
  - b. The member provides information to the Administration that requires a discontinuance of eligibility and a member signs a written statement waiving advance notice;
  - c. The member cannot be located and mail sent to the member's last known address has been returned as undeliverable under 42 CFR 431.213(d) subject to reinstatement of discontinued eligibility;
  - d. The member has been admitted to a public institution where a member is ineligible for coverage;
  - e. The member has been approved for Medicaid in another state; or
  - f. The Administration receives information confirming the death of the member.
- L. Request for hearing.** An applicant or member may request a hearing under Chapter 34 for any of the following adverse actions:
  - 1. Complete or partial denial of eligibility,
  - 2. Discontinuance or reduction of AHCCCS medical coverage, or
  - 3. Delay in the eligibility determination beyond the timeframes listed in R9-22-1501(D).
- M. Assignment of rights.** A person determined eligible assigns rights to all types of medical benefits to which the person is entitled under operation of law under A.R.S. § 36-2903.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10

A.A.R. 4588, effective October 12, 2004 (Supp. 04-4).  
Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1502. General Eligibility Criteria**

- A.** Social Security Number.
  - 1. An applicant applying under R9-22-1501(A)(1) or (A)(2), or R9-22-1505(A) shall furnish a SSN or apply for one, as required under 42 CFR 435.910 and 435.920.
  - 2. An applicant who meets all other eligibility criteria except the criteria in subsection (C) shall provide a SSN unless the applicant cannot legally obtain one.
  - 3. If an applicant cannot recall or has not been issued a SSN, the Administration shall assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910.
- B.** State residency. A person is not eligible unless the person is a resident of Arizona under 42 CFR 435.403.
- C.** Citizenship and immigrant status.
  - 1. An applicant or a member is not eligible for full services under Article 2 of this Chapter unless the applicant or member is a citizen of the United States or is a qualified alien under A.R.S. § 36-2903.03(B) or meets the requirements of A.R.S. § 36-2903.03(C).
  - 2. An applicant or member is eligible for emergency medical services under R9-22-217 if the applicant or member is either a qualified alien or noncitizen and:
    - a. Meets all other eligibility requirements except those in subsection (A); and
    - b. Is eligible under A.R.S. § 36-2901(6)(a)(i), (ii), or (iii).
- D.** Applicant and member responsibility. As a condition of eligibility, an applicant and a member shall:
  - 1. Authorize the Administration to obtain verification of information for initial or continued eligibility;
  - 2. Give the Administration complete and truthful information. The Administration may deny an application or discontinue eligibility if:
    - a. The applicant or member fails to provide information necessary for initial or continuing eligibility;
    - b. The applicant or member fails to provide the Administration with written authorization to permit the Administration to obtain necessary verification;
    - c. The applicant or member fails to provide verification after the Administration had made an effort to obtain the necessary verification but has not obtained the necessary information; or
    - d. The applicant or member does not assist the Administration in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;
  - 3. Comply with the DCSE under 42 CFR 433.148 in establishing paternity and enforcing medical support obligations when requested. The Administration shall not deny AHCCCS eligibility to any applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements or first- and third-party liability under Article 10;
  - 4. Provide information concerning third-party coverage for medical care; and
  - 5. Take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which the applicant or member may be entitled.
- E.** Inmate of a public institution. An inmate of a public institution is not eligible to AHCCCS coverage if federal financial participation (FFP) is not available.
- F.** Verification of eligibility information.

- 1. The applicant or member has the primary responsibility to provide the Administration with verification of all information necessary to complete the determination of eligibility.
- 2. The Administration shall provide an applicant or a member no less than 10 days following the date of written request for the information to provide required verification. If an applicant or member does not provide the required information timely, the Administration may deny the application or discontinue eligibility.

#### **Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### **R9-22-1503. Financial Eligibility Criteria**

- A.** General income eligibility. The Administration shall count the identified income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the exceptions in subsection (B).
- B.** Exceptions.
  - 1. In-kind support and maintenance under 42 U.S.C. 1382a(a)(2)(A) is excluded.
  - 2. For a person living with a spouse, the Administration calculates net income for an eligible couple under 42 CFR 416.1160 as of June 15, 1999, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments, even if the spouse is not eligible for or applying for SSI or coverage under this Article.
  - 3. In determining the net income of a married couple living with a child or the net income of a person who is not living with a spouse but living with a child, a child allocation is allowed as a deduction from the combined net income of the couple for each child regardless of whether the child is ineligible or eligible. For the purposes of this Section, a child means a person who is unmarried, natural or adopted, and under age 18 or under age 22 if a full-time student. Each child's allocation deduction is reduced by that child's income, including public income maintenance payments, using the methodology under 20 CFR 416.1163(b)(1) and (2) as of June 15, 1999, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
  - 4. In determining the income deemed available to an applicant who is a child from an ineligible parent or parents, an allocation for each eligible or ineligible child of the parent is allowed as a deduction from the parent's income under 20 CFR 416.1165(b). The child's allocation is reduced by that child's income, including public income maintenance payments.
  - 5. In determining the income of a person who receives an annual Title II Cost of Living Allowance (COLA) increase, the COLA amount is disregarded for the months of January through March, but is countable income effective in April to correspond with the FPL implementation date.
  - 6. Sponsor deemed income. The Administration shall use income of a USCIS sponsor to determine eligibility for a



non-citizen applicant under R9-22-1425, whether or not the income is available, unless exempt under R9-22-1426.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1504. Eligibility For A Person Who is Aged, Blind, or Disabled

- A.** To be eligible for AHCCCS medical coverage, an applicant shall meet the conditions of eligibility and requirements in this Article and:
1. Meet one of the income tests described in subsection (B) or (C), or
  2. The special requirements in R9-22-1505.
- B.** The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, is less than or equal to 100 percent of the SSI FBR, as adjusted annually.
- C.** The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, without deducting the amount from earned income under 42 U.S.C. 1382a(b)(4)(B)(iii), is less than or equal to 100 percent FPL as adjusted annually.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1505. Eligibility for Special Groups

- A.** The following are considered special groups:
1. A person meeting the requirements in A.R.S. § 36-2903.03 who:
    - a. Is aged, blind, or disabled under 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540 as of October 1, 2004, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
    - b. Received SSI cash or AHCCCS medical coverage under this subsection, or subsections (A)(2), (A)(3), or (A)(4) on or before August 21, 1996;
    - c. Was residing in the United States under color of law on or before August 21, 1996; and
    - d. Meets the requirements under this Article;
  2. A disabled child (DC) under 42 U.S.C. 1396a(a)(10)(A)(i)(II). A disabled child is a child who:
    - a. Was receiving SSI cash benefits as a disabled child on August 22, 1996;
    - b. Lost SSI cash benefits effective July 1, 1997, or later, due to a disability determination under Section 211(d)(2)(B) of Subtitle B of P.L. 104-193;
    - c. Continues to meet the disability requirements for a child that were in effect on August 21, 1996; and
    - d. Meets the requirements under this Article;
  3. A disabled adult child (DAC), under 42 U.S.C. 1383c(c) who:

- a. Was determined disabled by the Social Security Administration before attaining the age of 22 years,
  - b. Became entitled to or received an increase in child's insurance benefits under Title II of the Act on the basis of blindness or disability,
  - c. Was terminated from SSI cash benefits due to entitlement to or an increase in income under Title II of the Act,
  - d. Meets the requirements under this Article, and
  - e. Is 18 years of age or older;
4. A disabled widow or widower (DWW) under 42 U.S.C. 1383c(d) who:
- a. Is blind or disabled,
  - b. Is ineligible for Medicare Part A benefits,
  - c. Received SSI cash benefits the month before Title II of the Act benefit payments began, and
  - d. Meets the requirements under this Article; and
5. Under 42 CFR 435.135, a person who:
- a. Is aged, blind, or disabled;
  - b. Receives benefits under Title II of the Act;
  - c. Received SSI cash benefits in the past;
  - d. Received SSI cash benefits and Title II of the Social Security Act benefits concurrently for at least one month anytime after April 1977;
  - e. Became ineligible for SSI cash benefits while receiving SSI and benefits under Title II of the Act concurrently; and
  - f. Meets the requirements under this Article.

**B.** Income for special groups.

1. Except as provided in subsection (B)(2), income eligibility is determined using the income criteria in R9-22-1503(A).
  2. Exceptions to income for special groups.
    - a. For a person in the DAC coverage group under subsection (A)(3), the applicant's Title II of the Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(c).
    - b. For a person in the DWW coverage group, under subsection (A)(4), the applicant's Title II of the Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(b) and (d).
    - c. For an applicant or member in the coverage group under subsection (A)(5), the portion of the applicant's or member's Title II of the Act benefits attributed to cost-of-living adjustments received by the applicant since the effective date of SSI ineligibility is disregarded in determining income eligibility under 42 CFR 435.135.
- C.** 100 percent FBR. As a condition of eligibility for all special groups, countable income shall be equal to or less than 100 percent of the SSI FBR, as adjusted annually.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

#### R9-22-1506. Repealed

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R.

294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1507. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1508. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**ARTICLE 16. SOCIAL SECURITY DISABILITY INSURANCE - TEMPORARY MEDICAL COVERAGE****R9-22-1601. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1602. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1603. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1604. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1605. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section

repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1606. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1607. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1608. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1609. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1610. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1611. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1612. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1613. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1614. Expired****Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1615. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1616. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1617. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section

repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1618. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1619. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

**R9-22-1620. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1621. Reserved****R9-22-1622. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1623. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1624. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1625. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1626. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section

repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1627. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1628. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1629. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1630. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1631. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1632. Reserved**

**R9-22-1633. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1634. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1635. Reserved**

**R9-22-1636. Repealed**

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**ARTICLE 17. ENROLLMENT**

**R9-22-1701. Enrollment-Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Annual enrollment choice” means the annual opportunity for a person to change contractors.

“Auto-assignment algorithm” or “Algorithm” means a formula used by the Administration to assign to a contractor a member who did not make a timely choice under R9-22-1702.

“CMDP” means Comprehensive Medical and Dental Program.

“Disenrollment” means the discontinuance of a person’s entitlement to receive covered services from a contractor of record.

“Enrollment” means the process by which an eligible person becomes a member of a contractor’s plan.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**R9-22-1702. Enrollment of a Member with an AHCCCS Contractor**

**A.** General enrollment requirements. The Administration shall enroll a member with a contractor as described in this Section, unless the member has pre-selected a contractor on the application:

1. Except as provided in subsections (A)(3), (A)(5), and (C), a member who is determined to be eligible under this Chapter and resides in an area served by more than one contractor, may choose an available contractor serving the member’s GSA within 30 days from the date of notice of enrollment. A Native American member may select IHS or another available contractor.
2. If the member does not make a choice under subsection (A)(1), the Administration shall immediately auto-assign the member to:
  - a. IHS if the member is a Native American living on a reservation,
  - b. A contractor based on family continuity, or
  - c. A contractor by using the auto-assignment algorithm.
3. If the member’s period of ineligibility and disenrollment from the contractor of record is for a period of less than 90 days, the Administration shall enroll the member with the member’s most recent contractor of record, if available, except if:
  - a. The member no longer resides in the contractor’s GSA;
  - b. The contractor’s contract is suspended or terminated;
  - c. The member was previously enrolled with CMDP but at the time of re-enrollment the member is not a foster care child;

- d. The member chooses another contractor or chooses IHS, if available to the member, during the annual enrollment choice period; or
  - e. The member was previously enrolled with a contractor but at the time of re-enrollment the member is a foster care child.
- 4. When the member's disenrollment period is more than 90 days, the member may select a contractor as described in subsection (A)(1).
- 5. The Administration shall not enroll a member with a contractor if a member:
  - a. Is eligible for the FESP under R9-22-1419;
  - b. Is eligible for less than 30 days from the date the Administration receives notification of a member's eligibility, except for a member who is enrolled with CMDP or IHS;
  - c. Is eligible only for a retroactive period of eligibility, except for a member who is enrolled with CMDP or IHS; or
  - d. Resides in an area not served by a contractor.
- B.** Fee-for-service coverage. A member not enrolled with a contractor under subsection (A)(5) shall obtain covered medical services from an AHCCCS-registered provider on a fee-for-service basis under Article 7.
- C.** Foster care child. The Administration shall enroll a member with CMDP if the member is a foster care child under A.R.S. § 8-512.
- D.** Family Planning Services Extension Program. A member eligible for the Family Planning Services Extension Program under R9-22-1431, shall remain enrolled with the member's contractor of record or IHS.
- E.** Contractor or IHS enrollment change for a member.
  - 1. The Administration shall change a member's enrollment if the member requests a change to an available contractor or IHS during an annual enrollment period. A Native American may change from an available contractor to IHS or from IHS to an available contractor at any time.
  - 2. The Administration shall approve a change in enrollment for any member if the change is a result of the final outcome of a grievance under 9 A.A.C. 34.
  - 3. A member may choose a different contractor if the member moves into a GSA not served by the current contractor or if the contractor is no longer available. If the member does not select a contractor, the Administration shall auto-assign the member as provided in subsection (A)(2).
  - 4. The Administration shall provide the member 60-day advance notice of the member's option to change plans by the member's annual enrollment date.
  - 5. A member may disenroll from a plan if:
    - a. The member moves out of the GSA;
    - b. The plan does not, because of moral or religious objections, cover the service a member seeks; or
    - c. The member needs related services to be performed at the same time; not all related services are available within the network; and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk.
  - 6. For exceptions to this Article, the Administration shall approve a change for an enrolled member as determined by the Director.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by

exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### R9-22-1703. Effective Date of Enrollment with a Contractor

- A.** Effective date of enrollment. A member's date of enrollment is the date enrollment action is taken by the Administration. However, if a plan change occurs for an annual enrollment choice, the effective date is the month of the member's enrollment anniversary date.
- B.** Financial liability of the contractor. The contractor shall be financially liable for an enrolled member's care as specified in contract.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### R9-22-1704. Newborn Enrollment

- A.** General.
  - 1. The Administration shall enroll a newborn child of an eligible mother with an available contractor or IHS, based on the mother's enrollment.
  - 2. The Administration shall auto-assign a newborn child of an eligible mother who is not enrolled with a contractor or IHS or who is enrolled with CMDP. When a mother enrolled in CMDP has a newborn and the newborn is surrendered to Administration on Children, Youth and Families (ACYF), the newborn is then enrolled with CMDP.
  - 3. The Administration shall notify the mother of the right to choose a different contractor for her newborn child. The mother may make her choice within 30 days from the date of notice of enrollment.
- B.** Financial liability for newborns. The contractor shall be financially liable for the medical care of a newborn as specified in contract.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

#### R9-22-1705. Guaranteed Enrollment Period

- A.** General. Except for members enrolled with IHS or CMDP, the Administration shall provide a guaranteed enrollment period for a one-time period that begins on the effective date of the member's initial enrollment with a contractor and ends on the last day of the fifth full calendar month after the date of the member's initial enrollment.
- B.** Exceptions to guaranteed period. The Administration shall not grant a guaranteed enrollment period or shall terminate a guaranteed enrollment period as provided in subsection (C), if the member:
  - 1. Did not meet the conditions of eligibility when initially enrolled with the contractor;

2. Except as provided in 9 A.A.C. 22, Article 12, is an inmate of a public institution as defined in 42 CFR 435.1010;
  3. Dies;
  4. Moves out-of-state;
  5. Voluntarily withdraws from the AHCCCS program;
  6. Is adopted; or
  7. Has whereabouts that are unknown.
- C.** Disenrollment effective date. The Administration shall terminate any guaranteed enrollment period to which the member is not entitled effective on:
1. The date the member is admitted to a public institution under subsection (B);
  2. The member's date of death;
  3. The last day of the month in which the Administration receives notification that a member moved out-of-state;
  4. The date the Administration receives written notification of the member's voluntary withdrawal from the AHCCCS program;
  5. The last day of the month in which the Administration receives notification that a member's adoption proceedings are finalized; or
  6. The last day of the month in which the Administration receives notification that a member's whereabouts are unknown.
- D.** Retroactive adjustments. The Administration shall adjust the member's eligibility and enrollment retroactively under subsection (C).

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

**ARTICLE 18. RESERVED****ARTICLE 19. FREEDOM TO WORK**

*Article 19, consisting of Sections R9-22-1901 through R9-22-1922, made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).*

**R9-22-1901. General Freedom to Work Requirements**

Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income eligible under A.R.S. § 36-2901(6)(a).

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

**R9-22-1902. General Administration Requirements**

The Administration shall comply with the confidentiality rule under R9-22-512(C).

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1903. Application for Coverage**

- A.** A person may apply by submitting an application to an Administration office.
- B.** The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406(A).

- C.** The provisions in R9-22-1406(B) and (D) apply to this Section.
- D.** The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E.** Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1904. Notice of Approval or Denial**

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and
  - c. An explanation of the person's hearing rights specified in 9 A.A.C. 34.
2. If denied, R9-22-1501(G)(3) applies.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1905. Reporting and Verifying Changes**

An applicant or member shall report and verify changes, as described under R9-22-1501(H), to the Administration.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1906. Actions that Result from a Redetermination or Change**

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,
3. A change in premium amount, or
4. A change in the coverage group under which a person receives AHCCCS medical coverage.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

**R9-22-1907. Notice of Adverse Action Requirements**

- A.** The requirements under R9-22-1501(K)(1) apply.
- B.** Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C.** Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:

1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information, and the member signs a written statement waiving advance notice;
3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
4. A member has been admitted to a public institution where a person is ineligible for coverage;
5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1908. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1909. Conditions of Eligibility**

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded,
  - b. The income of a spouse or other family member shall be disregarded, and
  - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-1502(D) and (F).

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Section repealed; new Section made by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1910. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1911. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1912. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1913. Premium Requirements**

- A. As a condition of eligibility, an applicant or member shall:
  1. Pay the premium required under subsection (B).
  2. Not have any unpaid premiums for more than one month's premium amount.
- B. The Administration shall process premiums under 9 A.A.C. 31, Article 14 with the following exceptions:
  1. A member who has countable income:
    - a. Under \$500, the monthly premium payment shall be \$0.
    - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
  2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1914. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1915. Institutionalized Person**

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by CMS.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1916. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1917. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1918. Additional Eligibility Criteria for the Basic Coverage Group**

An applicant or member shall meet the following eligibility criteria:

1. Disabled. As a condition of eligibility, an applicant or member shall be disabled. Disabled means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E), except employment activity, earnings, and substantial gainful activity shall not be considered in determining whether the individual meets the definition of disability.
2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant or member's work.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

**R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group**

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
  - a. Earns at least the minimum wage and works at least 40 hours per month, or
  - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under Social Security Act section 1902(a)(10)(A)(ii)(XVI).

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1920. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

**R9-22-1921. Enrollment**

The Administration shall enroll members under Article 17 of this Chapter. If a member has not paid a required premium, the Administration shall not grant a guaranteed enrollment period.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

**R9-22-1922. Redetermination of Eligibility**

- A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance. The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement. If a member is no longer disabled under R9-22-1918, the Administration shall determine if the member is eligible under other coverage groups including the medically improved group.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

**ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM****R9-22-2001. Breast and Cervical Cancer Treatment Program Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meaning unless the context explicitly requires another meaning:

"AZ-NBCCEDP" means the Arizona programs of the National Breast and Cervical Cancer Early Detection Program. AZ-NBCCEDP provides breast and cervical cancer screening and diagnosis in Arizona.

"Cryotherapy" means the destruction of abnormal tissue using an extremely cold temperature.

"LEEP" means the loop electrosurgical excision procedure that passes an electric current through a thin wire loop.

"Peer-reviewed study" means that, prior to publication, a medical study has been subjected to the review of medical experts who:

- Have expertise in the subject matter of the study,
- Evaluate the science and methodology of the study,
- Are selected by the editorial staff of the publication, and
- Review the study without knowledge of the identity or qualifications of the author.

"WWHP" means the Well Women Healthcheck Program administered by the Arizona Department of Health Services. The WWHP is one of the programs within AZ-NBCCEDP that provides breast and cervical cancer screening and diagnosis.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

**R9-22-2002. General Requirements**

- A. Confidentiality. The Administration shall maintain the confidentiality of a woman's records and shall not disclose a woman's financial, medical, or other confidential information except as allowed under R9-22-512.
- B. Covered services. A woman who is eligible under this Article receives all medically necessary services under Articles 2 and 12 of this Chapter.
- C. Choice of health plan. A woman who is eligible under this Article shall be enrolled with a contractor under Article 17 of this Chapter.
- D. A Native American woman who receives services through Indian Health Service (IHS) or through a tribal health program



qualifies for services provided under this Article if all eligibility requirements are met.

- E. A woman qualified under this Article shall pay co-pays as described in R9-22-711.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2003. Eligibility Criteria

- A. General. To be eligible under this Article, a woman shall meet the requirements of this Article and:
1. Be screened for breast and cervical cancer through AZ-NBCCEDP;
  2. Be less than 65 years of age;
  3. Be ineligible for Title XIX under Articles 14 and 15 in this Chapter;
  4. Receive a positive screen under subsection (A)(1), a confirmed diagnosis through AZ-NBCCEDP, and need treatment for breast cancer or cervical cancer, including a pre-cancerous cervical lesion, as specified in R9-22-2004;
  5. Not be covered under creditable coverage as specified in Section 2701(c) of the Public Health Services Act, 42 U.S.C. 300gg(c). For purposes of this Article, IHS or Tribal health coverage is not considered creditable coverage as specified in 42 U.S.C. 1396a(a)(10)(A)(ii), as amended by the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2002; and
  6. Meet the requirements under R9-22-1417 and R9-22-1418.
- B. Ineligible woman. A woman is ineligible under this Article if the woman:
1. Is an inmate of a public institution and federal financial participation (FFP) is not available,
  2. Is at least age 21 but less than age 65 and resides in an Institution for Mental Disease (IMD) as defined in R9-22-112, except if allowed under the Administration's Section 1115 waiver, or
  3. No longer meets an eligibility requirement under this Article.
- C. Metastasized cancer. The AHCCCS Chief Medical Officer may continue a woman's eligibility under this Article if a metastasized cancer is found in another part of the woman's body and that metastasized cancer is a known or a presumed complication of the breast or cervical cancer as determined by the treating physician.
- D. Reoccurrence of cancer. A woman shall have eligibility reestablished after eligibility under this Article ends if the woman is screened under the AZ-NBCCEDP program and additional breast cancer or cervical cancer, including a pre-cancerous cervical lesion, is found.
- E. Ineligible male. A male is precluded from receiving screening and diagnostic services under the AZ-NBCCEDP program and is ineligible under this Article.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2004. Treatment

- A. Breast cancer. Coverage for treatment for breast cancer under this Article shall conclude on the last provider visit for the specific treatment of the cancer or at the end of hormonal therapy

for the cancer, whichever is later. For purposes of this subsection treatment means:

1. Lumpectomy or surgical removal of breast cancer;
2. Chemotherapy;
3. Radiation therapy; and
4. A treatment for breast cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

- B. Pre-cancerous cervical lesion. Coverage for treatment for a pre-cancerous cervical lesion under this Article, including moderate or severe cervical dysplasia or carcinoma in situ, shall conclude on the last provider visit for specific treatment for the pre-cancerous lesion. For purposes of this subsection treatment means:

1. Conization;
2. LEEP;
3. Cryotherapy; and
4. A treatment for pre-cancerous cervical lesion that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

- C. Cervical cancer. Coverage for treatment for cervical cancer under this Article shall conclude on the last provider visit for the specific treatment for the cancer. For purposes of this subsection treatment means:

1. Surgery;
2. Radiation therapy;
3. Chemotherapy; and
4. A treatment for cervical cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2005. Application Process

- A. Application. A woman may apply for eligibility under this Article by submitting a complete application as specified in R9-22-1406.
- B. Submitting the application. The woman may complete and submit an application at the time of the AZ-NBCCEDP screening. The AZ-NBCCEDP staff may mail or fax the application directly to the Administration.
- C. Date of application. The date of the application is the date of the diagnostic procedure that results in a positive diagnosis for breast cancer or cervical cancer, including a pre-cancerous cervical lesion.
- D. Responsibility of a woman who is applying or who is a member. A woman who is applying or who is a member shall:
1. Provide medical insurance information, including any changes in medical insurance; and
  2. Inform the Administration about a change in address, residence, and alienage status.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2006. Approval, Denial, or Discontinuance of Eligibility

- A. Eligibility determination. The Administration shall determine eligibility under this Article and send the notice under subsec-

tion (B) or (C) within seven days of receiving a complete application.

- B.** Approval. If a woman meets all the eligibility requirements in this Article, the Administration shall provide the woman with an approval notice. The approval notice shall contain:
  1. The name of the eligible woman, and
  2. The effective date of eligibility.
- C.** Denial. If the Administration denies eligibility, the Administration shall provide the woman with a denial notice. The denial notice shall contain:
  1. The name of the ineligible woman,
  2. The specific reason why the woman is ineligible,
  3. The legal citations supporting the reason for the denial,
  4. The location where the woman can review the legal citations, and
  5. Information regarding the woman's appeal and request for hearing rights.
- D.** Discontinuance.
  1. Except as specified in subsection (D)(2), if a woman no longer meets an eligibility requirement under this Article, the Administration shall provide the woman a Notice of Action no later than 10 days before the effective date of the discontinuance.
  2. The Administration may mail the Notice of Action no later than the effective date of the discontinuance if the Administration:
    - a. Receives a written statement from the woman voluntarily withdrawing from AHCCCS,
    - b. Receives information confirming the death of the woman,
    - c. Receives returned mail with no forwarding address from the post office and the woman's whereabouts are unknown, or
    - d. Receives information confirming that the woman has been approved for Title XIX services outside the state of Arizona.
  3. The Notice of Action shall contain the:
    - a. Name of the ineligible woman,
    - b. Effective date of the discontinuance,
    - c. Specific reason why the woman is discontinued,
    - d. Legal citations supporting the reason for the discontinuance,
    - e. Location where the woman can review the legal citations, and
    - f. Information regarding the woman's appeal and request for hearing rights.
- E.** Request for hearing. A woman who is denied, or discontinued for the Breast and Cervical Cancer Treatment Program may request a hearing under Chapter 34.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2007. Effective and End Date of Eligibility

- A.** The effective date of eligibility is the later of:
  1. The first day of the month in which a application is made; or
  2. The first day of the first month the woman meets all the eligibility requirements in this Article.
- B.** The end date of eligibility:
  1. For breast cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer or at the end of hormonal therapy for the cancer, whichever is later.

2. For pre-cancerous cervical lesion, is four months after the last provider visit for a treatment specified in R9-22-2004 for the pre-cancerous lesion.
3. For cervical cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer.

#### Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

#### R9-22-2008. Redetermination of Eligibility

- A.** Redetermination. Except as provided in subsection (B), the Administration shall redetermine eligibility at least once a year. If a woman continues to meet the requirements of eligibility for the Breast and Cervical Cancer Treatment Program under this Article, the Administration shall notify the woman of continued eligibility. A woman is not required to be screened for breast and cervical cancer through AZ-NBC-CEDP at redetermination.
- B.** Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the woman's circumstances that may affect eligibility, including a change in treatment.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

### ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

*Article 21, consisting of Sections R9-22-2101 through R9-22-2103, made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).*

#### R9-22-2101. General Provisions

- A.** A.R.S. § 36-2903.07 establishes the Administration as the authority to administer the Trauma and Emergency Services Fund.
- B.** The Administration shall distribute 90% of monies from the trauma and emergency services fund to a level I trauma center, as defined in subsection (F) of this Section, for unrecovered trauma center readiness costs as defined in subsection (F) of this Section. Reimbursement is limited to no more than the amount of unrecovered trauma center readiness costs as determined in subsections (D) and (E) of this Section. Unexpended funds may be used to reimburse unrecovered emergency room costs under subsection (C) of this Section.
- C.** The Administration shall distribute 10% of monies from the trauma and emergency services fund, for unrecovered emergency services costs, to a hospital having an emergency department, using criteria under R9-22-2103. Reimbursement is limited to no more than the amount of unrecovered emergency services costs as determined in R9-22-2103. The Administration may distribute more than 10% of the monies for unrecovered emergency room costs when there are unexpended monies under subsection (B) of this Section.
- D.** The Administration shall distribute a reporting tool and guidelines to level I trauma centers to determine, on an annual basis, the unrecovered trauma center readiness costs for level I trauma centers as defined in subsection (F) of this Section. The reporting time-frame is July 1 of the prior year through June 30 of the reporting year. A level I trauma center shall submit the requested data and a copy of the most recently completed uniform accounting report under A.R.S. § 36-125.04 to the Administration no later than October 31 of each reporting year.

- E.** When a level I trauma center closes in a county where there are one or more level I trauma center(s) remaining in operation, the following shall occur:
1. The closing level I trauma center shall submit the requested data under subsection (D) of this Section for the months of the reporting time-frame in which it met the definition of a level I trauma center, and
  2. The data under subsection (D) of this Section, which is submitted by the closing level I trauma center, shall be added to the remaining level I trauma center(s) in that county for the current reporting time-frame only.
- F.** In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
1. "Level I trauma center" means any acute care hospital that:
    - a. Provides in-house 24-hour daily dedicated trauma surgical services as defined in A.R.S. § 36-2201(26) pertaining to a trauma center, or
    - b. Is recognized as a rural regional trauma center that was providing formal organized trauma services on or before January 1, 2003.
  2. On or after January 1, 2005, "level I trauma center" means any acute care hospital designated by the Arizona Department of Health Services as a level I trauma center.
  3. "Unrecovered trauma center readiness costs" means losses incurred treating trauma patients:
    - a. Determined in accordance with Generally Accepted Accounting Principles,
    - b. Based on both clinical and professional costs incurred by a level I trauma center necessary for the provision of level I trauma care, and
    - c. Based on administrative and overhead costs directly associated with providing level I trauma care.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

**R9-22-2102. Distribution of Trauma and Emergency Services Fund: Level I Trauma Centers**

- A.** On or after November 1, 2003, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall take into consideration the proportion of those hospitals' trauma case volume. The Administration shall:
1. Recalculate the November 2003 payments in July 2004 using the formula in subsection (B) of this Section;
  2. Recoup November 2003 overpayments by reducing the July 2004 distributions under subsection (C) as appropriate; and
  3. Redistribute recouped funds, with the July 2004 payment, to level I trauma centers underpaid in November 2003.
- B.** On or after January 31 of each year, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall determine each hospital's unrecovered trauma center readiness costs for the current fiscal year using data from the most recent reporting year as provided under R9-22-2101(D) and (E). The proportion of each hospital's share of the fund for unrecovered trauma center readiness costs is determined after considering:
1. The professional, clinical, administrative, and overhead costs directly associated with providing level I trauma care, and
  2. The volume and acuity of trauma care provided by each hospital.
- C.** On or after July 31 of each year, the Administration shall distribute monies to level I trauma centers using monies, under R9-22-2101(B), available in the trauma and emergency services fund at the time of payment according to the proportions calculated and used for the January payments in the same year, under subsection (B) of this Section.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

**R9-22-2103. Distribution of Trauma and Emergency Services Fund: Emergency Services**

On or after June 30 of each year, the Administration shall distribute monies available in the trauma and emergency services fund at the time of payment as follows:

1. As allocated under R9-22-2101(C),
2. To hospitals that had an emergency department from July 1 through June 30 of the prior year, and
3. On a pro rata share of each hospital's cost of uncompensated emergency care as a percentage of the total statewide cost of uncompensated emergency care provided by hospitals under subsection (2) as reported in the uniform accounting reports to the Arizona Department of Health Services under A.R.S. § 36-125.04.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 18 A.A.R. 1748, effective July 1, 2012 (Supp. 12-2).

**R9-22-2104. Additional Trauma and Emergency Services Payments under the Section 1115 Waiver**

- A.** Notwithstanding R9-22-2101(D), for the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the balance of the Trauma and Emergency Services fund in the following manner:
1. Ninety percent of the amount shall be distributed to Level I trauma centers based upon each center's pro rata share of each center's acuity-adjusted volume as a percentage of the total acuity-adjusted volume for all centers in the state. The acuity-adjusted volume is calculated by multiplying the Injury Severity Score employed by trauma.org by the number of trauma cases at that level treated at the center during the reporting year. Hospitals shall report trauma scores and case volume on a worksheet prescribed by the Administration.
  2. Ten percent of the amount shall be distributed proportionately to hospitals that had an emergency department from July 1 through June 30 of the reporting year based the pro rata share of each hospital's cost of emergency care as a percentage of the total statewide cost of emergency care provided by hospitals as reported on the Worksheet B, column 27, line 61 of the hospital's most current Medicare Cost Report as of January 31 following the end of each reporting year.
- B.** For the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the federal financial participation made available under the section 1115 waiver for the purpose of making payments for unrecovered trauma and emergency services as follows:
1. Thirty percent of such funds to a Level I trauma center, in amounts calculated in the same manner as described in subsection (A)(1) of this Section, for any unrecovered

- trauma center readiness costs not reimbursed under subsection (A) of this Section;
2. Thirty percent of such funds to a hospital having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsection (A) of this Section; and
  3. Forty percent of such funds to rural hospitals, as defined in R9-22-718 that are not Level 1 trauma centers as defined in R9-22-2101(F), having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsections (A) and (B)(2) of this Section.
- C. For the reporting years ending June 30, 2011 and June 30, 2012, payments made under this Article shall not be made in an amount that results in aggregate payments to the hospital by the Administration and contractors exceeding of the upper payment limit for the hospital services as calculated in accordance with 42 CFR 447.
  - D. For the reporting years ending June 30, 2011 and June 30, 2012, to ensure compliance with subsection (C), payments under this Article shall be reconciled to the federal fiscal year that is two years subsequent to the payment.
  - E. Any payments that are determined under subsection (D) to exceed the limit in subsection (C) shall be distributed as described in this Article to hospitals that have not received payments in excess of the limit in subsection (C).

**Historical Note**

New Section made by exempt rulemaking at 18 A.A.R.  
1748, effective July 1, 2012 (Supp. 12-2).

**TITLE 9. HEALTH SERVICES**  
**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES**  
**EMERGENCY MEDICAL SERVICES**

Authority: A.R.S. §§ 36-136(F) and 36-2209(A) et seq.

*Editor's Note: Article 5 consisting of Sections R9-25-501 through R9-25-508 were recodified from Sections in Article 8 effective September 21, 2004 (Supp. 04-3). The Sections recodified from Article 8 were originally made or amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6).*

*Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper.*

*Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.*

**ARTICLE 1. DEFINITIONS**

*Article 1, consisting of Section R9-25-101, adopted effective October 15, 1996 (Supp. 96-4).*

Section

R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)

**ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION**

*Article 2, consisting of Sections R9-25-201 through R9-25-213 and Exhibits A through B, adopted effective October 15, 1996 (Supp. 96-4).*

Section

R9-25-201. Required Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7) and 36-2205(A) and (E))

R9-25-202. General Requirements for Provision of Administrative Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (E))

Exhibit A. Repealed

R9-25-203. General Requirements for Provision of On-line Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (E))

R9-25-204. Administrative Medical Director Qualifications and Responsibilities (Authorized by A.R.S. §§ 36-2201; 36-2202(A)(3) and (A)(4); 36-2204(5), (6), and (7); 36-2204.01; 36-2208(A); and 36-2209(A)(2))

R9-25-205. On-line Medical Director Qualifications and Responsibilities (A.R.S. §§ 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), and 36-2204.01)

R9-25-206. Centralized Medical Direction Communications Center (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204.01)

Exhibit B. Repealed

R9-25-207. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

R9-25-208. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

R9-25-209. Amendment of an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

R9-25-210. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3)

and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

R9-25-211. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

R9-25-212. Repealed

R9-25-213. Renumbered

**ARTICLE 3. TRAINING PROGRAMS**

*Article 3 repealed; new Article 3 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

*Article 3, consisting of Sections R9-25-301 through R9-25-311 and Exhibits C through F and H, adopted effective October 15, 1996 (Supp. 96-4).*

Section

R9-25-301. Definitions; Training Program General Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-302. Application Requirements for Training Program Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-303. Amendment of a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-305. Arizona EMT-B Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

Exhibit F. Repealed

R9-25-306. Arizona EMT-B Refresher, Arizona EMT-B Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-307. Expired

Exhibit H. Repealed

R9-25-308. Arizona EMT-P Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-309. Arizona ALS Refresher; Arizona ALS Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-310. Training Program Medical Director (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-311. Training Program Director (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

Exhibit D. Repealed

Exhibit C. Repealed

Exhibit E.	Repealed
R9-25-312.	Lead Instructor; Preceptor (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-313.	Training Program Policies and Procedures (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-314.	Training Program Disclosure Statements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-315.	Training Program Student Records (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-316.	Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-317.	Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
R9-25-318.	Arizona EMT-I(99)-to-EMT-P Transition Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
Exhibit A.	Equipment Minimum Standards for the Arizona EMT-I Course, EMT-P Course, ALS Refresher, and EMT-I(99)-to-EMT-P Transition Course
Exhibit B.	Expired
Exhibit C.	Arizona EMT-P Course and Arizona EMT-I(99)-to-EMT-P Transition Course Clinical Training and Field Training Competencies

#### ARTICLE 4. EMT CERTIFICATION

*Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

*Article 4, consisting of Sections R9-25-401 through R9-25-411 and Exhibits I through K, adopted effective October 15, 1996 (Supp. 96-4).*

Section	
R9-25-401.	EMT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (6), and (7))
R9-25-402.	EMT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), and 36-2204(1), (6), and (7))
R9-25-403.	EMT Probationary Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), and 36-2204(1), (6), and (7))
R9-25-404.	Application Requirements for EMT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))
R9-25-405.	Application Requirements for Temporary Nonrenewable EMT-B or EMT-P Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2202(G), and 36-2204(1), (6), and (7))
R9-25-406.	Application Requirements for EMT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (4), and (6))
R9-25-407.	Extension to File an Application for EMT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (6), 36-2202(G), and 36-2204(1), (4), (5), and (7))
R9-25-408.	Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))

R9-25-409.	Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3) and (A)(4), 36-2204(1) and (6), and 36-2211)
R9-25-410.	EMT Standards of Practice (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), 36-2204(1), (6) and (7), 36-2205, and 36-2211)
R9-25-411.	Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), 36-2204(1), (6) and (7), and 36-2211)
Exhibit I.	Repealed
Exhibit J.	Repealed
Exhibit K.	Repealed
R9-25-412.	Expired

#### ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL TECHNICIANS

*Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).*

*Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

*Article 5, consisting of Sections R9-25-501 through R9-25-515 and Exhibit P, adopted effective October 15, 1996 (Supp. 96-4).*

Section	
R9-25-501.	Protocol for Administration of a Tuberculin Skin Test by an EMT-I(99) or EMT-P
R9-25-502.	EMT's Scope of Practice
R9-25-503.	Protocol for an EMT to Administer, Monitor, or Assist in Patient Self-Administration of an Agent
Table 1.	Authorization for Administration, Monitoring, and Assistance in Patient Self-administration of Agents by EMT Certification; Identification of Transport Agents; Administration Requirements; and Minimum Supply Requirements for Agents
Exhibit 1.	Repealed
Exhibit 2.	Repealed
Exhibit 3.	Repealed
R9-25-504.	Protocol for Selection of a Health Care Institution for Emergency Medical Patient Transport
R9-25-505.	Protocol for IV Access by an EMT-B
Exhibit 1.	Lecture/Lab Vascular Access for EMT-Basics
Exhibit 2.	Course Outline
R9-25-506.	Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMT
R9-25-507.	Protocol for an EMT-P to Practice Knowledge and Skills in a Hazardous Materials Incident
R9-25-508.	Protocol for an EMT-B to Perform Endotracheal Intubation
R9-25-509.	Repealed
R9-25-510.	Protocol for EMT-B Carrying and Administration of Aspirin (A.R.S. §§ 36-2202, 36-2204, 36-2205, and 36-2209)
Exhibit P.	Repealed
R9-25-511.	Protocol for EMT-B Use of an Esophageal Tracheal Double Lumen Airway Device (ETDLAD) (A.R.S. §§ 36-2202, 36-2204, 36-2205, and 36-2209)
R9-25-512.	Repealed
R9-25-513.	Supplemental Skill Training Instructor Requirements
R9-25-514.	Repealed
R9-25-515.	Repealed

## Department of Health Services – Emergency Medical Services

**ARTICLE 6. REPEALED**

*Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

*Article 6, consisting of Sections R9-25-601 through R9-25-616 and Exhibits L through O and Q through S, adopted effective October 15, 1996 (Supp. 96-4).*

## Section

R9-25-601.	Repealed
R9-25-602.	Repealed
R9-25-603.	Repealed
R9-25-604.	Repealed
R9-25-605.	Repealed
R9-25-606.	Repealed
R9-25-607.	Repealed
R9-25-608.	Repealed
R9-25-609.	Repealed
Exhibit R.	Repealed
R9-25-610.	Repealed
R9-25-611.	Repealed
R9-25-612.	Repealed
R9-25-613.	Repealed
R9-25-614.	Repealed
R9-25-615.	Repealed
R9-25-616.	Repealed
Exhibit S.	Repealed
Exhibit G.	Repealed
Exhibit L.	Repealed
Exhibit M.	Repealed
Exhibit N.	Repealed
Exhibit O.	Repealed
Exhibit Q.	Repealed

**ARTICLE 7. AIR AMBULANCE SERVICE LICENSING**

*Article 7, consisting of Sections R9-25-701 through R9-25-718 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).*

## Section

R9-25-701.	Definitions (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)
R9-25-702.	Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)
R9-25-703.	Requirement and Eligibility for a License (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)
R9-25-704.	Initial Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)
R9-25-705.	Renewal Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)
R9-25-706.	Term and Transferability of License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)
R9-25-707.	Changes Affecting a License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)
R9-25-708.	Inspections and Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)
R9-25-709.	Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))
R9-25-710.	Minimum Standards for Operations (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

R9-25-711.	Minimum Standards for Mission Staffing (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)
R9-25-712.	Expired
R9-25-713.	Minimum Standards for Training (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)
R9-25-714.	Minimum Standards for Communications (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)
R9-25-715.	Minimum Standards for Medical Control (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)
R9-25-716.	Minimum Standards for Recordkeeping (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)
R9-25-717.	Minimum Standards for an Interfacility Neonatal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)
R9-25-718.	Minimum Standards for an Interfacility Maternal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

**ARTICLE 8. AIR AMBULANCE REGISTRATION**

*Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).*

*Article 8, consisting of R9-25-801, R9-25-802, Exhibits 1 through 4, and R9-25-803 Exhibit 1, recodified from A.A.C. R9-13-1501, R9-13-1502, Exhibits 1 through 4, and R9-13-1503 Exhibit 1; originally filed under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 98-1).*

*Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, adopted effective May 19, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2).*

## Section

R9-25-801.	Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2212)
R9-25-802.	Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4))
Exhibit 1.	Repealed
Exhibit 2.	Repealed
Exhibit 3.	Repealed
Exhibit 4.	Repealed
R9-25-803.	Term and Transferability of Certificate of Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)
Exhibit 1.	Recodified
Exhibit 2.	Recodified
R9-25-804.	Changes Affecting Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)
R9-25-805.	Inspections (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))
Exhibit 1.	Recodified
Exhibit 2.	Recodified
Exhibit 3.	Repealed
R9-25-806.	Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2212, 36-2234(L), 41-1092.03, and 41-1092.11(B))
R9-25-807.	Minimum Standards for an Air Ambulance (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

Table 1.	Minimum Equipment and Supplies Required on Air Ambulances, By Mission Level and Aircraft Type (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)
R9-25-808.	Recodified

#### ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

*Article 9, consisting of Sections R9-25-901 through R9-25-912, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).*

##### Section

R9-25-901.	Definitions (A.R.S. § 36-2202(A))
R9-25-902.	Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)
R9-25-903.	Determining Public Necessity (A.R.S. § 36-2233(B)(2))
R9-25-904.	Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)
R9-25-905.	Application for Amendment of a Certificate of Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)
R9-25-906.	Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)
R9-25-907.	Observance of Service Area; Exceptions (A.R.S. § 36-2232)
R9-25-908.	Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)
R9-25-909.	Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)
R9-25-910.	Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)
R9-25-911.	Ground Ambulance Service Advertising (A.R.S. § 36-2232)
R9-25-912.	Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)
Exhibit A.	Ambulance Revenue and Cost Report, General Information and Certification
Exhibit B.	Ambulance Revenue and Cost Report, Fire District and Small Rural Company

#### ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

*Article 10, consisting of Sections R9-25-1001 through R9-25-1006, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).*

##### Section

R9-25-1001.	Initial and Renewal Application for a Certificate of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)
R9-25-1002.	Minimum Standards for Ground Ambulance Vehicles (A.R.S. § 36-2202(A)(5))
R9-25-1003.	Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))
R9-25-1004.	Minimum Staffing Requirements for Ground Ambulance Vehicles (A.R.S. §§ 36-2201(4), 36-2202(A)(5))
R9-25-1005.	Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)
R9-25-1006.	Ground Ambulance Service Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)

#### ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

*Article 11, consisting of Sections R9-25-1101 through R9-25-1110, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).*

##### Section

R9-25-1101.	Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)
R9-25-1102.	Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)
R9-25-1103.	Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)
R9-25-1104.	Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))
R9-25-1105.	Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))
R9-25-1106.	Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)
R9-25-1107.	Rate Calculation Factors (A.R.S. § 36-2232)
R9-25-1108.	Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)
R9-25-1109.	Charges (A.R.S. §§ 36-2232, 36-2239(D))
R9-25-1110.	Invoices (A.R.S. §§ 36-2234, 36-2239)

#### ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS

*Article 12, consisting of Section R9-25-1201, Table 1, and Exhibits A and B, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).*

##### Section

R9-25-1201.	Time-frames (A.R.S. §§ 41-1072 through 41-1079)
Table 1.	Time-frames (in days)
Exhibit A.	Recodified
Exhibit B.	Recodified

#### ARTICLE 13. TRAUMA CENTER DESIGNATION

*Article 13, consisting of Section R9-25-1301 through R9-25-1315, Table 1 and Exhibit I, made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).*

##### Section

R9-25-1301.	Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1302.	Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1303.	Expired
R9-25-1304.	Initial Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1305.	Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1306.	Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1307.	Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1308.	Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1309.	Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1310.	On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Stan-



- dards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
- R9-25-1311. Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))
- R9-25-1312. Denial or Revocation of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
- R9-25-1313. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4), (5), and (6))
- R9-25-1314. Expired
- R9-25-1315. Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
- Table 1. Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
- Exhibit I. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

#### ARTICLE 14. TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE

*Article 14, consisting of Sections R9-25-1401 through R9-25-1406 and Table 1, made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).*

##### Section

- R9-25-1401. Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))
- R9-25-1402. Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))
- Table 1. Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))
- R9-25-1403. Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))
- R9-25-1404. Expired
- R9-25-1405. Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)
- R9-25-1406. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

#### ARTICLE 1. DEFINITIONS

##### **R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)**

The following definitions apply in this Chapter, unless otherwise specified:

1. “Administer” or “administration” means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. “Administrative medical direction” has the same meaning as in A.R.S. § 36-2201.
3. “Administrative medical director” means an individual qualified under R9-25-204 who provides administrative medical direction as required under R9-25-204.
4. “Advanced procedure” means an emergency medical service provided by an EMT that:
  - a. Requires skill or training beyond the basic skills or training prescribed in the Arizona EMT-B course as defined in R9-25-305; or
  - b. Is designated in A.R.S. Title 36, Chapter 21.1 or this Chapter as requiring medical direction.
5. “Agent” means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
6. “ALS base hospital” has the same meaning as “advanced life support base hospital” in A.R.S. § 36-2201.
7. “Ambulance service” has the same meaning as in A.R.S. § 36-2201.
8. “Centralized medical direction communications center” has the same meaning as in A.R.S. § 36-2201.
9. “Chief administrative officer” means an individual assigned to act on behalf of an ALS base hospital or a training program certified under Article 3 of this Chapter by the body organized to govern and manage the ALS base hospital or the training program.
10. “Clinical training” means to provide an individual with experience and instruction in providing direct patient care in a health care institution.
11. “Communication protocol” means a written guideline prescribing:
  - a. How an EMT shall:
    - i. Request and receive on-line medical direction;
    - ii. Notify an on-line physician before arrival of an EMT’s intent to transport a patient to a health care institution; and
    - iii. Notify a health care institution before arrival of an EMT’s intent to transport a patient to the health care institution; and
  - b. What procedures an EMT shall follow in a communications equipment failure.
12. “Conspicuously post” means to make visible to patients and other individuals by displaying on an object, such as a wall or bulletin board.
13. “Controlled substance” has the same meaning as in A.R.S. § 32-1901.
14. “Course content outline” means a sequential listing of subject matter, objectives, skills, and competencies to be taught or tested.
15. “Custody” means physical control and may include constructive physical control, such as where a supply of agents is stored in a receptacle that is locked and sealed with an individually identifiable tamper-proof seal that would be broken if the receptacle were opened.
16. “Dangerous drug” has the same meaning as in A.R.S. § 13-3401.
17. “Day” means a calendar day.
18. “Department” means the Arizona Department of Health Services.
19. “Document” or “documentation” means signed and dated information in written, photographic, electronic, or other permanent form.
20. “Drug” has the same meaning as in A.R.S. § 32-1901.
21. “Drug distributor” means a person with a current and valid pharmacy permit or wholesaler permit, issued by the Arizona State Board of Pharmacy, that allows the person to distribute drugs in Arizona.
22. “Electronic signature” has the same meaning as in A.R.S. § 41-351.
23. “Emergency medical services” has the same meaning as in A.R.S. § 36-2201.
24. “Emergency medical services provider” has the same meaning as in A.R.S. § 36-2201.

25. “EMT” has the same meaning as “certified emergency medical technician” in A.R.S. § 36-2201.
26. “EMT-B” has the same meaning as “basic emergency medical technician” in A.R.S. § 36-2201.
27. “EMT-I” has the same meaning as “intermediate emergency medical technician” in A.R.S. § 36-2201.
28. “EMT-I(85)” means an individual certified as an EMT-I who does not hold current NREMT-Intermediate registration, as defined in this Section, and who has not completed the Arizona EMT-I course, as defined in R9-25-307, or the Arizona EMT-Intermediate transition course, as defined in R9-25-301.
29. “EMT-I(99)” means an individual certified as an EMT-I who has completed:
  - a. The Arizona EMT-I course, as defined in R9-25-307; or
  - b. The Arizona EMT-Intermediate transition course, as defined in R9-25-301.
30. “EMT-P” has the same meaning as “emergency paramedic” in A.R.S. § 36-2201.
31. “FDA” means U.S. Food and Drug Administration.
32. “Field training” means to provide an individual with emergency medical services experience and training outside of a health care institution or a training program facility.
33. “General hospital” has the same meaning as in R9-10-201.
34. “Health care decision maker” has the same meaning as in A.R.S. § 12-2291.
35. “Health care institution” has the same meaning as in A.R.S. § 36-401.
36. “In use” means in the immediate physical possession of an EMT and readily accessible for potential imminent administration to a patient.
37. “Incapacitated adult” means an individual older than 18 years of age for whom a guardian, as defined in A.R.S. § 14-1201, has been appointed.
38. “Infusion pump” means an FDA-approved device, operated mechanically, electrically, or osmotically, that releases a measured amount of an agent into a patient’s circulatory system in a specific period of time.
39. “Interfacility transport” means an ambulance transport of a patient from one health care institution to another health care institution.
40. “Intermediate emergency medical technician level” means completion of training that meets or exceeds the training provided in the U.S. Department of Transportation, National Highway Traffic Safety Administration, EMT-Intermediate: National Standard Curriculum (1999), incorporated by reference in R9-25-307(A)(1).
41. “IV” means intravenous.
42. “Locked” means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
43. “Medical direction” means administrative medical direction or on-line medical direction.
44. “Medical record” has the same meaning as in A.R.S. § 36-2201.
45. “Minor” means an individual younger than 18 years of age who is not emancipated.
46. “Monitor” means to observe the administration rate of an agent and the patient response to the agent and may include discontinuing administration of the agent.
47. “Narcotic drug” has the same meaning as “narcotic drugs” in A.R.S. § 13-3401.
48. “NREMT” means the National Registry of Emergency Medical Technicians.
49. “NREMT-Intermediate registration” means EMT-Intermediate/99 registration granted by NREMT.
50. “On-line medical direction” means emergency medical services guidance or information provided to an EMT by an on-line physician through two-way voice communication.
51. “On-line physician” means an individual qualified under R9-25-205 who provides on-line medical direction as required under R9-25-205.
52. “Patient” means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
53. “Person” means:
  - a. An individual;
  - b. A business organization such as an association, cooperative, corporation, limited liability company, or partnership; or
  - c. An administrative unit of the U.S. government, state government, or a political subdivision of the state.
54. “Physician” has the same meaning as in A.R.S. § 36-2201.
55. “Physician assistant” has the same meaning as in A.R.S. § 32-2501.
56. “Practical nurse” has the same meaning as in A.R.S. § 32-1601.
57. “Practicing emergency medicine” means acting as an emergency medicine physician in a hospital emergency department.
58. “Prehospital incident history report” has the same meaning as in A.R.S. § 36-2220.
59. “Proficiency in advanced emergency cardiac life support” means:
  - a. Completion of 16 clock hours of organized training covering:
    - i. Electrocardiographic rhythm interpretation;
    - ii. Oral, tracheal, and nasal airway management;
    - iii. Nasotracheal intubation and surgical cricothyrotomy;
    - iv. Peripheral and central intravenous lines; and
    - v. Pharmacologic, mechanical, and electrical arrhythmia interventions; and
  - b. Every 24 months after meeting the requirement in subsection (a), completion of additional training as determined by the training provider covering the subject matter listed in subsection (a).
60. “Proficiency in advanced trauma life support” means:
  - a. Completion of 16 clock hours of organized training covering:
    - i. Rapid and accurate patient assessment,
    - ii. Patient resuscitation and stabilization,
    - iii. Patient transport or transfer, and
    - iv. Patient treatment and care; and
  - b. Every 48 months after meeting the requirement in subsection (a), completion of additional training as determined by the training provider covering the subject matter listed in subsection (a).
61. “Proficiency in cardiopulmonary resuscitation” means:
  - a. Completion of eight clock hours of organized training covering:
    - i. Adult and pediatric resuscitation,
    - ii. Rescuer scenarios and use of a bag-valve mask,
    - iii. Adult and child foreign-body airway obstruction in conscious and unconscious patients,
    - iv. Automated external defibrillation,

- v. Special resuscitation situations, and
  - vi. Common cardiopulmonary emergencies; and
  - b. Every 24 months after meeting the requirement in subsection (a), completion of additional training as determined by the training provider covering the subject matter listed in subsection (a).
62. "Proficiency in pediatric emergency care" means:
- a. Completion of 16 clock hours of organized training covering:
    - i. Pediatric rhythm interpretation;
    - ii. Oral, tracheal, and nasal airway management;
    - iii. Nasotracheal intubation and surgical cricothyrotomy;
    - iv. Peripheral and central intravenous lines;
    - v. Intraosseous infusion;
    - vi. Needle thoracostomy; and
    - vii. Pharmacologic, mechanical, and electrical arrhythmia interventions; and
  - b. Every 24 months after meeting the requirement in subsection (40)(a), completion of additional training as determined by the training provider covering the subject matter listed in subsection (40)(a).
63. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
64. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
65. "Session" means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
66. "Standing order" means a treatment protocol or triage protocol that authorizes an EMT to act without on-line medical direction.
67. "Substantially constructed cabinet" means a hard-shelled container that is difficult to breach without the use of a power cutting tool.
68. "Supervise" or "supervision" has the same meaning as "supervision" in A.R.S. § 36-401.
69. "Transport agent" means an agent that an EMT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's IV administration was started at the sending health care institution.
70. "Treatment protocol" means a written guideline that prescribes:
- a. How an EMT shall perform a medical treatment on a patient or administer an agent to a patient; and
  - b. When on-line medical direction is required, if the protocol is not a standing order.
71. "Triage protocol" means a written guideline that prescribes:
- a. How an EMT shall:
    - i. Assess and prioritize the medical condition of a patient,
    - ii. Select a health care institution to which a patient may be transported, and
    - iii. Transport a patient to a health care institution; and
  - b. When on-line medical direction is required, if the protocol is not a standing order.
72. "Unauthorized individual" means an individual who is not:
- a. A certified EMT obtaining access to an agent to provide emergency medical services within the EMT's scope of practice,
  - b. A licensed health care provider obtaining access to an agent to provide emergency medical services
- within the scope of practice of the health care provider's license, or
- c. An individual working for an emergency medical services provider whose job duties result in the individual's having access to an agent.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4).  
 Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**ARTICLE 2. MEDICAL DIRECTION; ALS BASE  
 HOSPITAL CERTIFICATION**

**R9-25-201. Required Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7) and 36-2205(A) and (E))**

- A. An EMT-B authorized to perform an advanced procedure shall not perform an advanced procedure unless the EMT has administrative medical direction and is able to receive on-line medical direction.
- B. An EMT-I or EMT-P shall not act as an EMT-I or EMT-P unless the EMT has administrative medical direction and is able to receive on-line medical direction.
- C. An emergency medical services provider or an ambulance service shall ensure that an EMT acting as an EMT for the emergency medical services provider or the ambulance service has administrative medical direction and is able to receive on-line medical direction, if required in subsections (A) or (B).

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-202. General Requirements for Provision of Administrative Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (E))**

An emergency medical services provider, an ambulance service, an ALS base hospital, or a centralized medical direction communications center that provides administrative medical direction shall:

- 1. Provide administrative medical direction:
  - a. Through an administrative medical director qualified under R9-25-204, and
  - b. As required in R9-25-204;
- 2. Maintain for Department review:
  - a. The name, address, and telephone number of each administrative medical director;
  - b. Documentation that an administrative medical director is qualified under R9-25-204; and
  - c. Policies, procedures, protocols, and documentation required under R9-25-204;
- 3. Notify the Department in writing no later than ten days after the date the emergency medical services provider, ambulance service, ALS base hospital, or centralized medical direction communications center providing administrative medical direction to an EMT:
  - a. Withdraws the EMT's administrative medical direction, or
  - b. Reinstates the EMT's administrative medical direction; and
- 4. Notify the Department in writing no later than ten days after the date the emergency medical services provider, ambulance service, ALS base hospital, or centralized

medical direction communications center providing administrative medical direction to an EMT becomes aware that the EMT:

- a. Is incarcerated or is on parole, supervised release, or probation for a criminal conviction;
- b. Is convicted of a crime listed in R9-25-402(A)(2), a misdemeanor involving moral turpitude, or a felony in this state or any other state or jurisdiction;
- c. Is convicted of a misdemeanor identified in R9-25-403(A) in this state or any other state or jurisdiction;
- d. Has registration revoked or suspended by NREMT; or
- e. Has EMT certification, recertification, or licensure revoked or suspended in another state or jurisdiction.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### Exhibit A. Repealed

#### Historical Note

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### R9-25-203. General Requirements for Provision of On-line Medical Direction (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (E))

- A. An emergency medical services provider, an ambulance service, an ALS base hospital, or a centralized medical direction communications center that provides on-line medical direction shall:
  1. Provide on-line medical direction:
    - a. Through an on-line physician qualified under R9-25-205, and
    - b. As required in R9-25-205; and
  2. Maintain for Department review:
    - a. The name, address, and telephone number of each on-line physician; and
    - b. Documentation that an on-line physician is qualified under R9-25-205.
- B. An emergency medical services provider, an ambulance service, an ALS base hospital, or a centralized medical direction communications center that provides on-line medical direction shall:
  1. Have operational and accessible communication equipment that will allow an on-line physician to give on-line medical direction.
  2. Have a written plan for alternative communications with an EMT in the event of disaster, communication equipment breakdown or repair, power outage, or malfunction; and
  3. Have an on-line physician qualified under R9-25-205 available to give on-line medical direction to an EMT 24 hours a day, seven days a week.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### R9-25-204. Administrative Medical Director Qualifications and Responsibilities (Authorized by A.R.S. §§ 36-2201; 36-

#### 2202(A)(3) and (A)(4); 36-2204(5), (6), and (7); 36-2204.01; 36-2208(A); and 36-2209(A)(2))

- A. An individual shall not act as an administrative medical director unless the individual:
  1. Is a physician; and
  2. Meets one of the following:
    - a. Has emergency medicine certification from a specialty board recognized by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners in Medicine and Surgery;
    - b. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
    - c. Is practicing emergency medicine and has:
      - i. Proficiency in advanced emergency cardiac life support,
      - ii. Proficiency in advanced trauma life support, and
      - iii. Proficiency in pediatric emergency care.
- B. An administrative medical director shall act only on behalf of:
  1. An emergency medical services provider;
  2. An ambulance service;
  3. An ALS base hospital certified under this Article;
  4. A centralized medical direction communications center; or
  5. The Department, as provided in A.R.S. § 36-2202(J).
- C. An administrative medical director:
  1. Shall coordinate the provision of administrative medical direction to EMTs; and
  2. May delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
    - a. A physician,
    - b. A physician assistant,
    - c. A registered nurse practitioner,
    - d. A registered nurse,
    - e. A practical nurse, or
    - f. An EMT-I or EMT-P.
- D. An administrative medical director shall:
  1. Ensure that an EMT receives administrative medical direction as required under A.R.S. Title 36, Chapter 21.1 and this Chapter;
  2. Approve, ensure implementation of, and annually review treatment protocols, triage protocols, and communications protocols for an EMT to follow that are consistent with:
    - a. A.R.S. Title 36, Chapter 21.1 and this Chapter; and
    - b. The EMT's scope of practice as identified under Article 5 of this Chapter;
  3. Approve, ensure implementation of, and annually review policies and procedures that an EMT shall follow for medical recordkeeping, medical reporting, and completion and processing of prehospital incident history reports that are consistent with:
    - a. A.R.S. Title 36, Chapter 21.1 and this Chapter; and
    - b. The EMT's scope of practice as identified under Article 5 of this Chapter;
  4. Approve, ensure implementation of, and annually review policies and procedures governing the administrative medical direction of an EMT, including policies and procedures for:
    - a. Monitoring and evaluating an EMT's compliance with treatment protocols, triage protocols, and communications protocols;

- b. Monitoring and evaluating an EMT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
  - c. Monitoring and evaluating an EMT's performance as authorized by the EMT's scope of practice as identified under Article 5 of this Chapter;
  - d. Ensuring that an EMT receives ongoing education, training, or remediation necessary to promote ongoing professional competency and compliance with EMT standards of practice established in R9-25-410;
  - e. Withdrawing an EMT's administrative medical direction; and
  - f. Reinstating an EMT's administrative medical direction; and
5. Approve, ensure implementation of, and annually review policies and procedures for a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMTs.
- E.** An administrative medical director shall:
- 1. Annually document that the administrative medical director has reviewed A.R.S. Title 36, Chapter 21.1 and this Chapter; and
  - 2. Ensure that an individual to whom the administrative medical director delegates authority to fulfill the requirements in this Section annually documents that the individual has reviewed A.R.S. Title 36, Chapter 21.1 and this Chapter.
- F.** An administrative medical director for an emergency medical services provider shall ensure that:
- 1. Each EMT for whom the administrative medical director provides administrative medical direction administers an agent only if the EMT is authorized to administer the agent under Article 5 of this Chapter;
  - 2. Each EMT for whom the administrative medical director provides administrative medical direction monitors an agent only if the EMT is authorized to monitor or administer the agent under Article 5 of this Chapter;
  - 3. Each EMT for whom the administrative medical director provides administrative medical direction assists in patient self-administration of an agent only if:
    - a. The EMT is authorized either to assist in patient self-administration of the agent or to administer the agent under Article 5 of this Chapter;
    - b. The agent is supplied by the patient;
    - c. The patient or, if the patient is a minor or incapacitated adult, the patient's health care decision maker indicates that the agent is currently prescribed for the patient's symptoms; and
    - d. The agent is in its original container and not expired;
  - 4. Each agent to which an EMT has access while on duty for the emergency medical services provider is obtained only from a person authorized by law to prescribe the agent or with a current and valid permit, issued by the Arizona State Board of Pharmacy, authorizing the person to operate a drug wholesaler or a pharmacy;
  - 5. Each transfer of an agent between the emergency medical services provider and another emergency medical services provider is documented as required by the Arizona State Board of Pharmacy and the U.S. Drug Enforcement Administration;
  - 6. The emergency medical services provider establishes, implements, and complies with a written standard operating procedure, applicable to each EMT for whom the administrative medical director provides administrative medical direction, that requires:
    - a. A written chain of custody for each supply of agents, including at least the following:
      - i. The name, EMT certification number, or employee identification number of each individual who takes custody of the supply of agents; and
      - ii. The time and date that each individual takes custody of the supply of agents;
    - b. Each individual who takes custody of a supply of agents to do the following:
      - i. Upon initially taking custody of the supply of agents, inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted or missing agents;
      - ii. Upon determining that any of the conditions described in subsection (F)(6)(b)(i) exists, document the condition, notify the administrative medical director if a controlled substance is depleted or missing, and obtain a replacement for each affected agent for which the minimum supply is not present; and
      - iii. Record each administration of an agent on a prehospital incident history report, as defined in A.R.S. § 36-2220;
    - c. Each EMT on duty for the emergency medical services provider to have access to at least the minimum supply of agents required for the highest level of service to be provided by the EMT;
    - d. That, except while in use, each agent to which an EMT has access while on duty for the emergency medical services provider is:
      - i. Secured in a dry, clean, washable receptacle;
      - ii. While on a motor vehicle or aircraft, secured in a manner that restricts movement of the agent and its receptacle; and
      - iii. If a controlled substance, locked in a substantially constructed cabinet; and
    - e. That each agent to which an EMT has access while on duty for the emergency medical services provider is kept inaccessible to unauthorized individuals at all times;
  - 7. Each EMT for whom the administrative medical director provides administrative medical direction has access to a copy of the emergency medical services provider's written standard operating procedure required under subsection (F)(6) while on duty for the emergency medical services provider;
  - 8. The administrative medical director notifies the Department in writing within 10 days after the administrative medical director receives notice, as required under subsection (F)(6)(b)(ii), that any quantity of a controlled substance is missing; and
  - 9. The administrative medical director complies with all Arizona State Board of Pharmacy and U.S. Drug Enforcement Administration requirements related to the control of agents.
- G.** Subsections (F)(4)-(9) do not apply to an administrative medical director for an emergency medical services provider if:
- 1. The emergency medical services provider obtains all of its agents from an ALS base hospital pharmacy, and
  - 2. The agents provided to the emergency medical services provider are owned by the ALS base hospital that provides them.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former

R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-205. On-line Medical Director Qualifications and Responsibilities (A.R.S. §§ 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), and 36-2204.01)**

- A.** An individual shall not act as an on-line physician unless the individual:
1. Is a physician; and
  2. Meets one of the following:
    - a. Has emergency medicine certification from a specialty board recognized by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners in Medicine and Surgery;
    - b. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
    - c. Is practicing emergency medicine and has:
      - i. Proficiency in advanced emergency cardiac life support,
      - ii. Proficiency in advanced trauma life support, and
      - iii. Proficiency in pediatric emergency care.
- B.** An individual shall act as an on-line physician only on behalf of:
1. An emergency medical services provider,
  2. An ambulance service,
  3. An ALS base hospital certified under this Article, or
  4. A centralized medical direction communications center.
- C.** An on-line physician shall give on-line medical direction to an EMT:
1. As required under A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
  2. Consistent with the EMT's scope of practice as identified under Article 5 of this Chapter;
  3. Consistent with treatment protocols, triage protocols, and communication protocols approved by the EMT's administrative medical director; and
  4. Consistent with medical recordkeeping, medical reporting, and prehospital incident history report requirements approved by the EMT's administrative medical director.
- D.** An on-line physician may allow an individual acting under the supervision of the on-line physician to relay on-line medical direction, if the individual is:
1. A physician,
  2. A physician assistant,
  3. A registered nurse practitioner,
  4. A registered nurse,
  5. A practical nurse, or
  6. An EMT-I or EMT-P.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3).

**R9-25-206. Centralized Medical Direction Communications Center (A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204.01)**

- A.** Pursuant to A.R.S. § 36-2204.01, an emergency medical services provider or an ambulance service may provide centralized medical direction by:
1. Solely operating one or more centralized medical direction communications centers;
  2. Joining with one or more emergency medical services providers or ambulance services to operate one or more centralized medical direction communications centers; or
  3. Entering into an agreement with one or more centralized medical direction communications centers to provide medical direction to EMTs acting as EMTs for the emergency medical services provider or the ambulance service.
- B.** For the purposes of A.R.S. § 36-2201(7), a "freestanding communications center":
1. May be housed within one or more physical facilities, and
  2. Is not limited to a single physical location.
- C.** For the purposes of A.R.S. § 36-2201(7)(b), a centralized medical direction communications center shall be "staffed" if an on-line physician qualified under R9-25-205 is available to give on-line medical direction to an EMT 24 hours a day, seven days a week.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

*The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on the repealing of this Exhibit (Supp. 98-4).*

**Exhibit B. Repealed**

**Historical Note**

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

**R9-25-207. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))**

- A.** A person shall not operate as an ALS base hospital without certification from the Department.
- B.** The Department shall not certify an ALS base hospital if:
1. Within five years before the date of filing an application required by this Article, the Department has decertified the ALS base hospital; or
  2. The applicant knowingly provides false information on or with an application required by this Article.

## Department of Health Services – Emergency Medical Services

- C. The Department shall certify an ALS base hospital if the applicant:
1. Is not ineligible for certification under subsection (B);
  2. Is licensed as a general hospital under 9 A.A.C. 10, Article 2 or is a general hospital operated in this state by the United States federal government or by a sovereign tribal nation;
  3. Has at least one written agreement that meets the requirements of A.R.S. § 36-2201(2); and
  4. Meets the application requirements in R9-25-208.
- D. An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E. An ALS base hospital certificate holder shall:
1. Conspicuously post the original or a copy of the ALS base hospital certificate in the emergency room lobby or emergency room reception area of the ALS base hospital; and
  2. Return an ALS base hospital certificate to the Department immediately upon decertification by the Department pursuant to R9-25-211 or upon voluntarily ceasing to act as an ALS base hospital.
- F. Every 24 months after certification, the Department shall inspect, pursuant to A.R.S. § 41-1009, an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- G. The Department may inspect, pursuant to A.R.S. § 41-1009, an ALS base hospital:
1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
  2. As necessary to determine compliance with the requirements of this Article.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-208. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))**

- A. An applicant for ALS base hospital certification shall submit to the Department an application including:
1. An application form provided by the Department containing:
    - a. The applicant's name, address, and telephone number;
    - b. The name and telephone number of the applicant's chief administrative officer;
    - c. The name, address, and telephone number of each administrative medical director;
    - d. The name, address, and telephone number of each on-line physician;
    - e. Attestation that the applicant meets the communication requirements in R9-25-203(B);
    - f. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
    - g. Attestation that all information required as part of the application has been submitted and is true and accurate; and
    - h. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
  2. A copy of the applicant's current general hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and

3. A copy of each executed written agreement, including all attachments and exhibits, described in A.R.S. § 36-2201(2).

- B. The Department shall approve or deny an application under this Section pursuant to Article 12 of this Chapter.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-209. Amendment of an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))**

- A. No later than 10 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall submit to the Department an application form provided by the Department containing:
1. The new name and the effective date of the name change;
  2. Attestation that all information submitted to the Department is true and correct; and
  3. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. No later than 10 days after the date of a change in the address listed on an ALS base hospital certificate or a change of ownership, as defined in R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-208(A).
- C. The Department shall approve or deny an application under this Section pursuant to Article 12 of this Chapter.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-210. ALS Base Hospital Authority and Responsibilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))**

- A. An ALS base hospital certificate holder shall:
1. Provide both administrative medical direction and on-line medical direction;
  2. Comply with the requirements in R9-25-202, R9-25-203, R9-25-204, and R9-25-205;
  3. Ensure that personnel are available to provide:
    - a. Administrative medical direction as required in R9-25-204, and
    - b. On-line medical direction as required in R9-25-205; and
  4. Provide administrative medical direction and on-line medical direction to each EMT pursuant to a written agreement that meets the requirements of A.R.S. § 36-2201(2).
- B. An ALS base hospital certificate holder shall:
1. No later than 24 hours after ceasing to meet the requirement in R9-25-207(C)(2) or R9-25-207(C)(3), notify the Department in writing; and
  2. No later than 48 hours after terminating, adding, or amending a written agreement required in R9-25-207(C)(3), notify the Department in writing and, if applicable, submit to the Department a copy of the new or amended written agreement that meets the requirements of R9-25-207(C)(3).

- C. An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
1. Is eligible for training program certification as provided in R9-25-301(C); and
  2. Complies with the requirements in R9-25-301(I) and R9-25-304 through R9-25-318 and the Exhibits to Article 3 of this Chapter.
- D. If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure, through the ALS base hospital's pharmacist-in-charge, that:
1. Each agent to which an EMT has access while on duty for the emergency medical services provider is obtained only from a person authorized by law to prescribe the agent or with a current and valid permit, issued by the Arizona State Board of Pharmacy, authorizing the person to operate a drug wholesaler or a pharmacy;
  2. Each transfer of an agent between the emergency medical services provider and another emergency medical services provider is documented as required by the Arizona State Board of Pharmacy and the U.S. Drug Enforcement Administration;
  3. The emergency medical services provider establishes, implements, and complies with a written standard operating procedure, applicable to each EMT for whom the ALS base hospital supplies agents or provides administrative medical direction, that requires:
    - a. A written chain of custody for each supply of agents, including at least the following:
      - i. The name, EMT certification number, or employee identification number of each individual who takes custody of the supply of agents; and
      - ii. The time and date that each individual takes custody of the supply of agents;
    - b. Each individual who takes custody of a supply of agents to do the following:
      - i. Upon initially taking custody of the supply of agents, inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted or missing agents;
      - ii. Upon determining that any of the conditions described in subsection (D)(3)(b)(i) exists, document the condition, notify the ALS base hospital's pharmacist-in-charge if a controlled substance is depleted or missing, and obtain a replacement for each affected agent for which the minimum supply is not present; and
      - iii. Record each administration of an agent on a prehospital incident history report, as defined in A.R.S. § 36-2220;
    - c. Each EMT on duty for the emergency medical services provider to have access to at least the minimum supply of agents required for the highest level of service to be provided by the EMT;
    - d. That, except while in use, each agent to which an EMT has access while on duty for the emergency medical services provider is:
      - i. Secured in a dry, clean, washable receptacle;
      - ii. While on a motor vehicle or aircraft, secured in a manner that restricts movement of the agent and its receptacle; and
      - iii. If a controlled substance, locked in a substantially constructed cabinet; and
    - e. That each agent to which an EMT has access while on duty for the emergency medical services provider is kept inaccessible to unauthorized individuals at all times;
  4. Each EMT for whom the ALS base hospital supplies agents or provides administrative medical direction has access to a copy of the emergency medical services provider's written standard operating procedure required under subsection (D)(3) while on duty for the emergency medical services provider;
  5. The ALS base hospital's pharmacist-in-charge notifies the Department in writing within 10 days after the pharmacist-in-charge receives notice, as required under subsection (D)(3)(b)(ii), that any quantity of a controlled substance is missing; and
  6. The ALS base hospital's pharmacist-in-charge complies with all Arizona State Board of Pharmacy and U.S. Drug Enforcement Administration requirements related to the control of agents.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

#### **R9-25-211. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))**

- A. The Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:
1. Does not meet the certification requirements in R9-25-207(C)(2) or R9-25-207(C)(3);
  2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
  3. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against an ALS base hospital certificate holder:
1. After notice is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
  2. After notice is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
  3. After notice and an opportunity to be heard is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
  4. After notice and an opportunity to be heard is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### **R9-25-212. Repealed**

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).



**R9-25-213. Renumbered****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**ARTICLE 3. TRAINING PROGRAMS**

*Article 3 repealed; new Article 3 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

**R9-25-301. Definitions; Training Program General Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))****A.** In this Article:

1. "Arizona EMT-Intermediate transition course" means the instruction prescribed in Exhibit B to this Article provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C);
2. "Course" means the:
  - a. Arizona EMT-B course, defined in R9-25-305;
  - b. Arizona EMT-B refresher, defined in R9-25-306;
  - c. Arizona EMT-I course, defined in R9-25-307;
  - d. Arizona EMT-P course, defined in R9-25-308;
  - e. Arizona ALS refresher, defined in R9-25-309;
  - f. Arizona EMT-Intermediate transition course, defined in subsection(A)(1); or
  - g. Arizona EMT-I(99)-to-EMT-P transition course, defined in R9-25-318;
3. "NREMT-Intermediate practical examination" means the NREMT-Intermediate practical examination required for NREMT-Intermediate registration; and
4. "Refresher challenge examination" means the:
  - a. Arizona EMT-B refresher challenge examination, defined in R9-25-306; or
  - b. Arizona ALS refresher challenge examination, defined in R9-25-309.

**B.** A person shall not provide or offer to provide a course or refresher challenge examination without training program certification from the Department.**C.** The Department shall not certify a training program, if:

1. Within five years before the date of filing an application required in R9-25-302, the Department has decertified a training program operated by the applicant; or
2. The applicant knowingly provides false information on or with an application required by this Article.

**D.** The Department shall certify a training program, if the applicant:

1. Is not ineligible for certification pursuant to subsection (C); and
2. Meets the application requirements in R9-25-302.

**E.** A training program certificate is valid only for the name, address, and courses listed by the Department on the certificate.**F.** A training program certificate holder shall:

1. Maintain with an insurance company authorized to transact business in this state:
  - a. A minimum single claim professional liability insurance coverage of \$500,000; and
  - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
2. Be self-insured for the amounts in subsection (F)(1).

**G.** A training program certificate holder shall:

1. Conspicuously post the original or a copy of the training program certificate in the training program administrative office;

2. Return the training program certificate to the Department upon decertification by the Department pursuant to R9-25-317 or upon voluntarily ceasing to act as a training program; and
3. Not transfer the training program certificate to another person.

**H.** Every 24 months after certification, the Department shall inspect, pursuant to A.R.S. § 41-1009, a training program to determine ongoing compliance with the requirements of this Article.**I.** The Department may inspect, pursuant to A.R.S. § 41-1009, a training program:

1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
2. As necessary to determine compliance with the requirements of this Article.

**J.** The Department shall approve or deny an application under this Article pursuant to Article 12 of this Chapter.**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-302. Application Requirements for Training Program Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

An applicant for training program certification shall submit to the Department an application including:

1. An application form provided by the Department containing:
  - a. The applicant's name, address, and telephone number;
  - b. The name and telephone number of the applicant's chief administrative officer;
  - c. The name of each course the applicant will provide;
  - d. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
  - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
  - f. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
2. A copy of a certificate of insurance or proof of self-insurance required in R9-25-301(F);
3. For each training program medical director, documentation that the individual is qualified under R9-25-310;
4. For each training program director, documentation that the individual is qualified under R9-25-311;
5. For each lead instructor, documentation that the individual is qualified under R9-25-312;
6. If required under R9-25-304(B), a copy of each executed agreement, including all attachments and exhibits, for clinical training and field training;
7. For each course to be provided, copies of policies and procedures required in R9-25-313;
8. For each course to be provided, copies of disclosure statements required in R9-25-314;
9. For each course to be provided, a completed form provided by the Department verifying that the applicant will develop, administer, and grade a final written course examination, a final comprehensive practical skills exam-

- ination, or a refresher challenge examination that meets the requirements established for the course; and
10. For each course to be provided, a completed form provided by the Department verifying that the applicant has:
    - a. Equipment that meets equipment requirements established for the course; and
    - b. Facilities that meet facility requirements established for the course.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-303. Amendment of a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A. No later than 10 days after a change in the name or address listed on a training program certificate, the training program certificate holder shall submit to the Department an application form provided by the Department containing:
  1. The new name or new address and the date of the name or address change;
  2. Attestation that the current insurance required in R9-25-301(F) is valid for the new name or new address;
  3. Attestation that all information submitted to the Department is true and correct; and
  4. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. Before providing a course not listed by the Department on a training program certificate, a training program certificate holder shall:
  1. Submit to the Department an application for the new course that includes the information in R9-25-302; and
  2. Gain approval of the new course from the Department.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A. For each session of a course provided, a training program certificate holder shall:
  1. Designate a training program medical director qualified under R9-25-310 and ensure that the training program medical director fulfills all responsibilities established in R9-25-310;
  2. Designate a training program director qualified under R9-25-311 and ensure that the training program director fulfills all responsibilities established in R9-25-311;
  3. Assign a lead instructor qualified under R9-25-312;
  4. Ensure that clinical training and field training are provided under the supervision of a preceptor qualified under R9-25-312;
  5. Meet all requirements that are established for the course as prescribed in this Article;
  6. For clinical training in the course, have a maximum ratio of four students to one preceptor or instructor;
  7. For field training in the course, have a maximum ratio of one student to one preceptor or instructor; and
  8. Not allow a student more than six months from the official session completion date to complete all course requirements.

- B. For a course's clinical training or field training that is not provided directly by a training program, the training program shall have a written agreement between the training program and each health care institution, emergency medical services provider, or ambulance service providing the training that:
  1. Requires that all training be provided under the supervision of a preceptor qualified under R9-25-312; and
  2. Contains a termination clause that provides sufficient time for students to complete the training upon termination of the agreement.
- C. A certified training program authorized to provide the Arizona EMT-B refresher may administer an Arizona EMT-B refresher challenge examination to an individual eligible for admission into the Arizona EMT-B refresher. The certified training program shall limit the individual to one attempt to pass the Arizona EMT-B refresher challenge examination.
- D. A certified training program authorized to provide the Arizona ALS refresher may administer an Arizona ALS refresher challenge examination to an individual eligible for admission into the Arizona ALS refresher. The certified training program shall limit the individual to one attempt to pass the Arizona ALS refresher challenge examination.
- E. A training program certificate holder shall ensure that:
  1. The training program director for a specific session of a course does not:
    - a. Enroll in that session of the course as a student or allow an instructor for that session of the course to enroll in that session of the course as a student,
    - b. Issue to himself or herself or to an instructor for that session of the course a certificate of completion for that session of the course,
    - c. Administer to himself or herself or to an instructor for that session of the course a refresher challenge examination,
    - d. Allow an instructor for that session of the course to administer to himself or herself a refresher challenge examination, or
    - e. Issue to himself or herself or to an instructor for that session of the course a certificate of completion for a refresher challenge examination;
  2. During a final examination or refresher challenge examination, a student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
  3. The identity of each student taking a final examination or refresher challenge examination is verified through photo identification before the student is permitted to take the examination;
  4. A student who violates subsection (E)(2) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination;
  5. An instructor who allows a student to violate subsection (E)(2) or assists a student in violating subsection (E)(2) is no longer permitted to serve as an instructor;
  6. Each examination for a course is completed onsite at the training program or at a facility used for course instruction;
  7. Each final examination for a course is proctored; and
  8. Each individual who proctors or administers a final examination for a course is neither the training program director nor an instructor for the course.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9

A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).  
Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-305. Arizona EMT-B Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

A. “Arizona EMT-B course” means the United States Department of Transportation, National Highway Traffic Safety Administration, Emergency Medical Technician-Basic: National Standard Curriculum (1994):

1. Incorporated by reference and on file with the Department and the Office of the Secretary of State, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on <http://www.nhtsa.gov> by going to the Quick Link for Emergency Medical Services Program;
2. Modified in subsection (B); and
3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).

B. The Arizona EMT-B course is modified as follows:

1. No more than 24 students shall be enrolled in each session of the course;
2. The following prerequisites are required:
  - a. Prerequisites identified in the course introductory materials under the heading “Prerequisites”; and
  - b. Prerequisites listed for lessons 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 2-1, 2-2, 2-3, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 6-1, 6-2, 6-3, 7-1, 7-2, 7-3, and 7-4;
3. The minimum course length is 110 contact hours;
4. Modules 1 through 7 are required;
5. Module 8 is deleted;
6. EMS equipment listed for lessons 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 2-1, 2-2, 2-3, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-8, 3-9, 3-10, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 6-1, 6-2, 6-3, 7-1, 7-2, 7-3, and 7-4 is required and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
7. Facility recommendations identified in the course introductory materials under the headings “Environment” and “Facilities” are requirements;
8. In addition to modules 1 through 7, the course shall also contain additional instruction and skills training in:
  - a. Blood glucose monitoring that provides information and hands-on training on the equipment and procedures necessary to evaluate blood sugar levels;
  - b. Intravenous monitoring that provides information and hands-on training on transporting a patient with an established intravenous or patient controlled analgesic pump; and
  - c. Administration of epinephrine by auto-injector, including:
    - i. The epidemiology and physiology of anaphylaxis and allergic reaction;
    - ii. Common methods of entry of substances into the body;
    - iii. Common antigens most frequently associated with anaphylaxis;

- iv. Physical examination of patients with complaints associated with anaphylaxis or allergic reaction;
- v. Signs and symptoms of anaphylaxis, allergic reaction, and respiratory distress associated with anaphylaxis;
- vi. Differentiating between anaphylaxis and other medical conditions that may mimic anaphylaxis;
- vii. The following information about epinephrine by auto-injector:
  - (1) Class,
  - (2) Mechanism of action,
  - (3) Indications and field use,
  - (4) Contraindications,
  - (5) Adverse reactions,
  - (6) Incompatibilities and drug reactions,
  - (7) Adult and pediatric dosages,
  - (8) Route and method of administration,
  - (9) Onset of action,
  - (10) Peak effects,
  - (11) Duration of action,
  - (12) Dosage forms and packaging,
  - (13) Minimum supply requirements under R9-25-503,
  - (14) Special considerations, and
  - (15) Proper storage conditions; and
- viii. A practical skills demonstration of competency in administering epinephrine by auto-injector;

9. A final closed book written course examination is required and shall:

- a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
- b. Cover the learning objectives of the course with representation from each of the course modules; and
- c. Require a passing score of 75% or better in no more than three attempts; and

10. A final comprehensive practical skills examination is required and shall:

- a. Evaluate a student’s technical proficiency in skills identified in Appendix H; and
- b. Enable a student to meet NREMT-Basic registration requirements.

C. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-B course session for didactic instruction.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3).

**Exhibit F. Repealed**

**Historical Note**

Exhibit F adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-306. Arizona EMT-B Refresher, Arizona EMT-B Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

A. “Arizona EMT-B refresher” means the United States Department of Transportation, National Highway Traffic Safety Administration, Emergency Medical Technician: Basic Refresher Curriculum Instructor Course Guide, (1996):

1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on <http://www.nhtsa.gov> by going to the Quick Link for Emergency Medical Services Program;
2. As modified in subsection (B); and
3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).

B. The Arizona EMT-B refresher is modified as follows:

1. No more than 32 students shall be enrolled in each session of the course;
2. The minimum admission requirements are:
  - a. One of the following:
    - i. Current EMT-B or higher level certification in this state or certification, recertification, or licensure at the basic emergency medical technician level or higher level in any other state or jurisdiction;
    - ii. Current NREMT-Basic or higher level registration; or
    - iii. Being required by NREMT to complete the Arizona EMT-B refresher to become eligible to seek NREMT-Basic registration; and
  - b. Proficiency in cardiopulmonary resuscitation;
3. The minimum course length is 24 contact hours;
4. Modules 1 through 6 are required;
5. EMS equipment listed for Modules II, III, IV, V, and VI is required and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
6. Facility recommendations identified for the Arizona EMT-B course are requirements;
7. The course shall include instruction on administration of epinephrine by auto-injector that meets the requirements described in R9-25-305(B)(8)(c);
8. For a student who has not completed the Arizona EMT-B course, the course shall contain additional instruction and skills training in:
  - a. Blood glucose monitoring that provides information and hands-on training on the equipment and procedures necessary to evaluate blood sugar levels, and
  - b. Intravenous monitoring that provides information and hands-on training on transporting a patient with an established intravenous or patient controlled analgesic pump;
9. A final closed book written course examination is required and shall:
  - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
  - b. Cover the learning objectives of the course with representation from each of the course modules; and

- c. Require a passing score of 75% or better in no more than three attempts; and
10. A final comprehensive practical skills examination is required and shall:
  - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1 through 6; and
  - b. Enable a student to meet NREMT-Basic registration or reregistration requirements.
- C. “Arizona EMT-B refresher challenge examination” means competency testing prescribed in the Arizona EMT-B refresher that is administered by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- D. The Arizona EMT-B refresher challenge examination shall consist of:
  1. The EMT-B refresher final written course examination, required in subsection (B)(9); and
  2. The EMT-B refresher final comprehensive practical skills examination, required in subsection (B)(10).
- E. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-B refresher session for didactic instruction.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3).

**R9-25-307. Expired****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

**Exhibit H. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-308. Arizona EMT-P Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

A. “Arizona EMT-P course” means the United States Department of Transportation, National Highway Traffic Safety Administration, EMT-Paramedic: National Standard Curriculum (1998):

1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on <http://www.nhtsa.gov> by going to the Quick Link for Emergency Medical Services Program;
2. As modified in subsection (B); and

3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B. The Arizona EMT-P course is modified as follows:
  1. No more than 24 students shall be enrolled in each session of the course;
  2. The following course prerequisites are required:
    - a. Prerequisites identified in the course introductory materials under the heading “The EMT-Paramedic: National Standard Curriculum, Prerequisites”; and
    - b. Completion of a minimum of 24 clock hours of hazardous materials training that meets the requirements of the National Fire Protection Association’s NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents, 2002 Edition; Competencies for First Responders at the Operational Level; incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-747 and from the Department’s Bureau of Emergency Medical Services and Trauma System;
  3. The minimum course length is 1000 contact hours, including:
    - a. A minimum of 500 contact hours of didactic instruction and practical laboratory, and
    - b. A minimum of 500 contact hours of clinical training and field training;
  4. Modules 1 through 8 are required;
  5. Equipment required for the course is listed in Exhibit A and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
  6. Facility recommendations on page 32 of the introductory material are requirements;
  7. Each student shall complete the competencies in Exhibit C during clinical training and field training;
  8. A final closed book written course examination is required and shall:
    - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
    - b. Cover the learning objectives of the course with representation from each of the course modules; and
    - c. Require a passing score of 75% or better in no more than three attempts; and
  9. A final comprehensive practical skills examination is required and shall:
    - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1 through 8; and
    - b. Enable a student to meet NREMT-Paramedic registration requirements.
- C. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-P course session for didactic instruction.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007

(Supp. 07-3).

#### **R9-25-309. Arizona ALS Refresher; Arizona ALS Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A. “Arizona ALS refresher” means the U.S. Department of Transportation, National Highway Traffic Safety Administration, EMT-Paramedic: NSC Refresher Curriculum (2001):
  1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on <http://www.nhtsa.gov> by going to the Quick Link for Emergency Medical Services Program;
  2. As modified in subsection (B); and
  3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B. The Arizona ALS refresher is modified as follows:
  1. No more than 32 students shall be enrolled in each session of the course;
  2. The minimum admission requirements are:
    - a. One of the following:
      - i. Current certification as an EMT-I(99) or EMT-P in this state or certification, recertification, or licensure at the intermediate emergency medical technician level or paramedic level in any other state or jurisdiction;
      - ii. Current NREMT-Intermediate or NREMT-Paramedic registration; or
      - iii. Being required by NREMT to complete the Arizona ALS refresher to become eligible to seek NREMT-Intermediate or NREMT-Paramedic registration; and
    - b. Proficiency in cardiopulmonary resuscitation and proficiency in advanced emergency cardiac life support;
  3. The minimum course length is 48 contact hours;
  4. Modules 1 through 6 are required;
  5. For a student at the intermediate emergency medical technician level, lessons, tasks, and objectives shall not exceed the intermediate emergency medical technician skill level;
  6. Equipment required for the course is listed in Exhibit A and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
  7. Facility recommendations identified for the Arizona EMT-P course are requirements;
  8. A final closed book written course examination is required and shall:
    - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
    - b. Cover the learning objectives of the course with representation from each of the course modules; and
    - c. Require a passing score of 75% or better in no more than three attempts; and
  9. A final comprehensive practical skills examination is required and shall:
    - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1, 2, 4, 5, and 6; and

- b. Enable a student to meet NREMT-Intermediate or NREMT-Paramedic registration or reregistration requirements.
- C. “Arizona ALS refresher challenge examination” means competency testing prescribed in the Arizona ALS refresher that is administered by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- D. The Arizona ALS refresher challenge examination shall consist of:
  1. The ALS refresher final written course examination, required in subsection (B)(8); and
  2. The ALS refresher final comprehensive practical skills examination, required in subsection (B)(9).
- E. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona ALS refresher session for didactic instruction.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3).

#### R9-25-310. Training Program Medical Director (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. A training program certificate holder shall ensure that a training program medical director:
  1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3); and
  2. Meets one of the following:
    - a. Has emergency medicine certification from a specialty board recognized by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners in Medicine and Surgery;
    - b. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
    - c. Is practicing emergency medicine and has:
      - i. Proficiency in advanced emergency cardiac life support,
      - ii. Proficiency in advanced trauma life support, and
      - iii. Proficiency in pediatric emergency care.
- B. A training program medical director designated for a course session shall:
  1. Before the start date of the course session, ensure that the course has a course content outline and final examinations that are consistent with:
    - a. Requirements established in the course; and
    - b. The scope of practice of the EMT level to which the course corresponds; and
  2. During the course session, ensure that the course content outline is followed and that the final examinations are given.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

Supp. 06-4).

#### R9-25-311. Training Program Director (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. A training program certificate holder shall ensure that a training program director is:
  1. A physician with at least two years emergency medical services experience as a physician;
  2. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years emergency medical services experience as a doctor of allopathic medicine or osteopathic medicine;
  3. A registered nurse licensed under A.R.S. Title 32, Chapter 15 or licensed in another state or jurisdiction with at least two years emergency medical services experience as a registered nurse;
  4. A physician’s assistant licensed under A.R.S. Title 32, Chapter 25 or licensed in another state or jurisdiction with at least two years emergency medical services experience as a physician’s assistant;
  5. An EMT-P with at least two years experience as an EMT-P;
  6. An EMT-I(99) with at least two years experience as an EMT-I(99), only if acting as a training program director for the Arizona EMT-I course, EMT-I Arizona ALS refresher, Arizona EMT-Intermediate transition course, Arizona EMT-B course, or Arizona EMT-B refresher; or
  7. An EMT-B with at least two years experience as an EMT-B, only if acting as a training program director for the Arizona EMT-B course or Arizona EMT-B refresher.
- B. A training program director designated for a course session shall:
  1. Supervise the day-to-day operation of the course session;
  2. Supervise and evaluate the course session lead instructor and all preceptors providing clinical training or field training;
  3. Ensure that policies and procedures established for the course pursuant to R9-25-313 are followed;
  4. Ensure that true and accurate records for each student enrolled in the course session are kept pursuant to R9-25-315;
  5. Ensure that a refresher challenge examination is administered and graded pursuant to the requirements established in R9-25-306 or R9-25-309;
  6. Ensure that a student is assisted in making reservations to take NREMT written examinations required for NREMT registration;
  7. Ensure that a student is assisted in completing application forms required for NREMT registration;
  8. Ensure that a student is assisted in completing application forms required for certification in this state;
  9. Ensure that forms required pursuant to R9-25-316(B) or (C) are completed and submitted to the Department;
  10. For a student who completes a course, issue a certificate of completion containing:
    - a. Identification of the training program;
    - b. The name of the course completed;
    - c. The name of the student who completed the course;
    - d. The date the student completed all course requirements;
    - e. Attestation that the student has met all course requirements; and
    - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
  11. For an EMT who passes a refresher challenge examination, issue a certificate of completion containing:

## Department of Health Services – Emergency Medical Services

- a. Identification of the training program;
- b. The name of the refresher challenge examination administered;
- c. The name of the EMT who passed the refresher challenge examination;
- d. The dates the EMT took the refresher challenge examination;
- e. Attestation that the EMT has passed the refresher challenge examination; and
- f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**Exhibit D. Repealed****Historical Note**

Exhibit D adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit C. Repealed****Historical Note**

Exhibit C adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit E. Repealed****Historical Note**

Exhibit E adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-312. Lead Instructor; Preceptor (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A. A training program certificate holder shall ensure that a lead instructor is:
  1. A physician with at least two years emergency medical services experience;
  2. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years emergency medical services experience;
  3. A registered nurse licensed under A.R.S. Title 32, Chapter 15 or licensed in another state or jurisdiction with at least two years emergency medical services experience;
  4. A physician's assistant licensed under A.R.S. Title 32, Chapter 25 or licensed in another state or jurisdiction with at least two years emergency medical services experience;
  5. An EMT-P with at least two years experience as an EMT-P;
  6. An EMT-I(99) with at least two years experience as an EMT-I(99), only if acting as a lead instructor for the Arizona EMT-I course, EMT-I Arizona ALS refresher, Arizona EMT-Intermediate transition course, Arizona EMT-B course, or Arizona EMT-B refresher; or
  7. An EMT-B with at least two years experience as an EMT-B, only if acting as a lead instructor for the Arizona EMT-B course or Arizona EMT-B refresher.
- B. A lead instructor shall have completed 24 hours of training related to instructional methodology including:
  1. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
  2. Preparing and administering tests and practical examinations;
  3. Using equipment and supplies;
  4. Measuring student performance;
  5. Evaluating student performance;
  6. Providing corrective feedback; and
  7. Evaluating course effectiveness.

- C. A lead instructor assigned to a course session shall:
  1. Be present or have a substitute lead instructor present during all course hours established for the course session; and
  2. Ensure that course instruction is provided and is consistent with the course content outline and final examinations established for the course.
- D. A training program certificate holder shall ensure that a preceptor is:
  1. A physician or a doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction;
  2. A registered nurse licensed under A.R.S. Title 32, Chapter 15 or licensed in another state or jurisdiction;
  3. A physician's assistant licensed under A.R.S. Title 32, Chapter 25 or licensed in another state or jurisdiction;
  4. An EMT-P with at least two years experience as an EMT-P;
  5. An EMT-I(99) with at least two years experience as an EMT-I(99), only if acting as a preceptor for the Arizona EMT-I course, EMT-I Arizona ALS refresher, Arizona EMT-B course, or Arizona EMT-B refresher; or
  6. An EMT-B with at least two years experience as an EMT-B, only if acting as a preceptor for the Arizona EMT-B course or Arizona EMT-B refresher.
- E. A preceptor shall provide training consistent with the clinical training or field training established in a course and, if applicable, a written agreement required in R9-25-304(B).

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-313. Training Program Policies and Procedures (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A training program certificate holder shall establish, implement, and annually review policies and procedures for:
1. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
  2. Student attendance, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
  3. Grading, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
  4. Administration of final examinations;
  5. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct; and
  6. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-314. Training Program Disclosure Statements (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

A training program certificate holder shall provide all course applicants with the following documentation before the start date of a course session:

1. A description of requirements for admission, course content, course hours, course fees, and course completion;
2. A list of books, equipment, and supplies that a student is required to purchase for the course;
3. Notification of requirements for a student to begin any part of the course, including physical examinations, immunizations, tuberculin skin tests, drug screening, and the ability to perform certain physical activities;
4. A copy of training program policies and procedures required under R9-25-313;
5. A copy of Article 4 of this Chapter; and
6. A copy of NREMT policies and requirements governing:
  - a. NREMT practical and written examinations, and
  - b. NREMT registration.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-315. Training Program Student Records (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A.** A training program certificate holder shall keep the following records for each student enrolled in a course session:
1. The student's name;
  2. A copy of the student's enrollment agreement or contract;
  3. The name of the course in which the student is enrolled;
  4. The student's attendance records;
  5. The student's clinical training records;
  6. The student's field training records;
  7. The student's grades;
  8. Documentation of scores for each final written examination attempted or completed by the student; and
  9. Documentation of each final practical examination attempted or completed by the student, including all forms used as part of the final practical examination.
- B.** A training program certificate holder shall retain student records required under subsection (A) for three years from the start date of a student's course session.
- C.** A training program certificate holder shall keep records for each EMT to whom a refresher challenge examination is administered, including:
1. The EMT's name;
  2. The challenge examination taken;
  3. The challenge examination date;
  4. The final written examination attempted or completed by the student and the written examination numeric grade; and
  5. Documentation of each practical examination attempted or completed by the student, including all forms used as part of the practical examination.
- D.** A training program certificate holder shall retain records required under subsection (C) for three years from the date a refresher challenge examination is administered.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-316. Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A.** At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department a completed form provided by the Department containing:
1. Identification of the training program,
  2. The course name,
  3. The name of the course session's training program medical director and attestation that the training program medical director is qualified under R9-25-310,
  4. The name of the course session's training program director and attestation that the training program director is qualified under R9-25-311,
  5. The name of the course session's lead instructor and attestation that the lead instructor is qualified under R9-25-312,
  6. The course session start date and end date, and
  7. The main location at which instruction for the course session will be provided.
- B.** No later than 10 days after the date a student completes all course requirements, a training program certificate holder shall submit to the Department, the following information on a completed form provided by the Department:
1. The course name and the start date and end date of the course session completed;
  2. Name, Social Security number, and mailing address of the student who has completed the course;
  3. Date the student completed all course requirements; and
  4. Signed and dated attestation of the training program director designated for the course session that the student has met all course requirements.
- C.** No later than 10 days after the date a certified training program administers a refresher challenge examination, the training program certificate holder shall submit to the Department a completed form provided by the Department containing:
1. Identification of the refresher challenge examination administered;
  2. Name, Social Security number, and address of the EMT who passed the refresher challenge examination;
  3. Refresher challenge examination date; and
  4. Signed and dated attestation of the training program director designated for the course session that the EMT has passed the refresher challenge examination.
- D.** A training program certificate holder shall maintain for Department review and inspection all documents and records as required under this Article.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-317. Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A.** The Department may take an action listed in subsection (B) against a training program certificate holder who:
1. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
  2. Knowingly or negligently provides false documentation or information to the Department.
- B.** The Department may take the following action against a training program certificate holder:



1. After notice is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure;
2. After notice is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation;
3. After notice and opportunity to be heard is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, suspend the training program certificate; or
4. After notice and opportunity to be heard is provided pursuant to A.R.S. Title 41, Chapter 6, Article 10, decertify the training program.

#### Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### **R9-25-318. Arizona EMT-I(99)-to-EMT-P Transition Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**

- A.** “Arizona EMT-I(99)-to-EMT-P transition course” means the U.S. Department of Transportation, National Highway Traffic Safety Administration, EMT-Paramedic: National Standard Curriculum (1998):
1. Incorporated by reference in R9-25-308,
  2. As modified in subsection (B), and
  3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B.** The Arizona EMT-I(99)-to-EMT-P transition course is modified as follows:
1. No more than 24 students shall be enrolled in each session of the course;
  2. Each student enrolled shall have current certification as an EMT-I(99);
  3. The following course prerequisites are required:
    - a. Completion of a minimum of 24 clock hours of hazardous materials training that meets the requirements of the National Fire Protection Association's NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents, 2002 Edition; Competencies for First Responders at the Operational Level, incorporated by reference in R9-25-308; and
    - b. Evidence of proficiency in cardiopulmonary resuscitation and proficiency in advanced emergency cardiac life support;
  4. In addition to the minimum contact hours of didactic instruction required under subsection (B)(5), each student shall complete at least 60 hours of training in anatomy and physiology that:
    - a. Is completed either:
      - i. As a prerequisite to the course,
      - ii. As preliminary instruction completed at the beginning of the course session before the units of instruction required under subsection (B)(6), or
      - iii. Through integration of the anatomy and physiology material with the units of instruction required under subsection (B)(6); and

- b. Covers the anatomy and physiology prerequisite objectives listed in Appendix E to the course materials;
  5. The minimum course length is 600 contact hours, including:
    - a. A minimum of 220 contact hours of didactic instruction and practical laboratory, and
    - b. A minimum of 380 contact hours of clinical training and field training;
  6. The following units of instruction are required:
    - a. In Module 1, units 1-2, 1-3, 1-4, 1-5, 1-6, 1-9, and 1-10;
    - b. In Module 3, units 3-1, 3-2, 3-3, 3-4, and 3-5;
    - c. In Module 4, units 4-3, 4-4, 4-5, 4-8, and 4-9;
    - d. In Module 5, units 5-1, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-9, 5-10, 5-11, 5-12, 5-13, and 5-14;
    - e. In Module 6, units 6-1, 6-3, 6-4, 6-5, and 6-6;
    - f. In Module 7, unit 7-1; and
    - g. In Module 8, units 8-2, 8-3, 8-4, and 8-5;
  7. Equipment required for the course is listed in Exhibit A and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
  8. Facility recommendations on page 32 of the introductory material are requirements;
  9. Each student shall complete the competencies in Exhibit C during clinical training and field training;
  10. A final closed book written course examination is required and shall:
    - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
    - b. Cover the learning objectives of the course with representation from each of the required units of instruction; and
    - c. Require a passing score of 75% or better in no more than three attempts; and
  11. A final comprehensive practical skills examination is required and shall:
    - a. Evaluate a student's technical proficiency in skills identified as psychomotor objectives in the units of instruction required under subsection (B)(6), and
    - b. Enable a student to meet NREMT-Paramedic registration requirements.
- C.** A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-I(99)-to-EMT-P transition course session for didactic instruction.

#### Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed;  
 new Section made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**Exhibit A. Equipment Minimum Standards for the Arizona EMT-I Course, EMT-P Course, ALS Refresher, and EMT-I(99)-to-EMT-P Transition Course**

Quantity	Equipment
1	Moulage or Casualty Simulation Equipment
6	Trauma Dressings
1 per student	Pen Lights (or provided by the student)
1 per student	Scissors (or provided by the student)
4	Stethoscopes (or provided by the student)
4	Blood pressure cuffs - adult sizes
4	Blood pressure cuffs - child size
4	Bag-valve-mask devices - adult size
4	Bag-valve-mask devices - pediatric size
2	Oxygen tank with regulator and key (Must be operational and maintain a minimum of 500psi.)
4	Oxygen masks non-rebreather - adult
4	Oxygen masks non-rebreather - child
4	Nasal cannulas
2 boxes	Alcohol preps
One box per student	Gloves - (small, medium, large, and extra large, non-latex) (each student has one box of an appropriate size available during the course)
6 packages	4x4 sponges (non sterile)
5 boxes	5x9 sponges (non sterile)
36 rolls	Rolled gauze (non sterile)
5	Occlusive dressings
2	Traction splint devices
2	Cervical-thoracic spinal immobilization device for extrication, with straps
2	Long spine boards with securing devices
3 of each size	Cervical collars (small, regular, medium, large, and extra large) NOTE: may substitute 6 adjustable devices NOTE: Soft collars and foam types are not acceptable
2	Head immobilization materials/devices
1	Ambulance stretcher
2	Blood glucose monitoring devices
2	Portable suction devices
3	Rigid suction catheters
3	Flexible suction catheters
2 of each size	Oropharyngeal airways
2 of each size	Nasopharyngeal airways
2 of each size	Rigid splints (6 inch, 12 inch, 18 inch, 24 inch, and 36 inch)
2	Burn sheets
2	OB kits
2	CPR Manikins - adult
2	CPR Manikins - child

2	CPR Manikins - infant
1 per student	CPR face shields or similar barrier device (or provided by the student)
1 per student	Pocket mask (or provided by the student)
1	Semi-Automatic Defibrillator or AED training device
1 box	IV Catheter - Butterfly
1 box	IV Catheter - 24 Gauge
1 box	IV Catheter - 22 Gauge
1 box	IV Catheter - 20 Gauge
1 box	IV Catheter - 18 Gauge
1 box	IV Catheter - 16 Gauge
1 box	IV Catheters central line catheter or intra-cath
1 unit	Monitor/Defibrillator
1 unit	Arrhythmia Simulator
1 box	Electrodes
2 unit	Intubation Manikin-adult
2 unit	Intubation Manikin - pediatrics
1 set each type	Laryngoscope Handle and Blades - one complete set curved and straight, sizes 0 through 4
1 set	Endotracheal Tubes - 3.0, 3.5, 4.0, 4.5, 5.0, 5.5, 6.0, 6.5, 7.0, 7.5, 8.0, 8.5, and 9.0
1	Esophageal Tracheal Double Lumen Airway Device
2 each	Stylet - adult and pediatric
1 box	1 cc Syringes
1 box	3 cc Syringes
1 box	5 cc Syringes
1 box	10-12 cc Syringes
1 box	20 cc Syringes
2	IV Infusion Arm
5 bags each	IV Fluids: 100cc, 250cc, 500cc, 1000cc
5 sets each	IV Tubing - 10gtt and 60gtt
5 sets	Blood tubing
2	Sharps containers
1 for each skill	Invasive Skills Manikin – Cricothyrotomy, Central Line, Tension Pneumothorax NOTE: A single manikin equipped for all skills, or a combination of manikins to cover all skills, is acceptable.
1 for each skill	Training Devices for intraosseous and sternal intraosseous, adult and pediatric NOTE: A single device equipped for all skills, or a combination of devices to cover all skills, is acceptable.
2	Magill forceps
2	Hemostat forceps
3	IV tourniquets
3	Scalpels
1	Simulated Drug Box

**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372,

effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit B expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

#### **Exhibit B. Expired**

##### **Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372,

#### **Exhibit C. Arizona EMT-P Course and Arizona EMT-I(99)-to-EMT-P Transition Course Clinical Training and Field Training Competencies**

##### **A. PSYCHOMOTOR SKILLS**

1. **The student shall demonstrate the ability to safely administer agents:** The student shall safely, and while performing all steps of each procedure, properly administer agents at least 10 times to live patients.
2. **The student shall demonstrate the ability to safely perform endotracheal intubation:** The student shall safely, and while performing all steps of each procedure, successfully intubate at least one live patient or cadaver.
3. **The student shall demonstrate the ability to safely gain venous access in all age group patients:** The student shall safely, and while performing all steps of each procedure, successfully access the venous circulation at least 17 times on live patients of various age groups.
4. **The student shall demonstrate the ability to effectively ventilate unintubated patients of all age groups:** The student shall effectively, and while performing all steps of each procedure, ventilate at least 12 unintubated live patients.

##### **B. AGES**

1. **The student shall demonstrate the ability to perform a comprehensive assessment on pediatric patients:** The student shall perform a comprehensive patient assessment on at least 20 pediatric patients, including newborns, infants, toddlers, and school-age.
2. **The student shall demonstrate the ability to perform a comprehensive assessment on adult patients:** The student shall perform a comprehensive patient assessment on at least 20 adult patients of various age groups, including young, middle, and older patients.

##### **C. PATHOLOGIES**

1. **The student shall demonstrate the ability to perform a comprehensive assessment on obstetric patients:** The student shall perform a comprehensive patient assessment on at least 5 obstetric patients.
2. **The student shall demonstrate the ability to perform a comprehensive assessment on trauma patients:** The student shall perform a comprehensive patient assessment on at least 20 trauma patients.
3. **The student shall demonstrate the ability to perform a comprehensive assessment on behavioral patients:** The student shall perform a comprehensive patient assessment on at least 10 behavioral patients.

##### **D. CHIEF COMPLAINTS**

1. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with chest pain:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 20 patients with chest pain.
2. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with dyspnea/respiratory distress:**
  - a. The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 adult patients with dyspnea or respiratory distress; and
  - b. The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 5 pediatric patients, including infants, toddlers, and school-age, with dyspnea or respiratory distress.
3. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with abdominal complaints:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 patients with abdominal complaints such as abdominal pain, nausea or vomiting, gastrointestinal bleeding, and gynecological complaints.
4. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with altered mental status:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 patients with altered mental status.

##### **E. TEAM LEADER SKILLS**

**The student shall demonstrate the ability to serve as a team leader in a variety of prehospital emergency situations:** The student shall serve as the team leader for at least 25 prehospital emergency responses.

##### **Historical Note**

New Exhibit made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3).

**ARTICLE 4. EMT CERTIFICATION**

*Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

**R9-25-401. EMT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (6), and (7))**

- A. Except as provided in R9-25-406(G), an individual shall not act as an EMT-B, EMT-I, or EMT-P unless the individual has current certification or recertification from the Department.
- B. The Department shall approve or deny an application required by this Article pursuant to Article 12 of this Chapter.
- C. If the Department denies an application for certification or recertification, the applicant may request a hearing pursuant to A.R.S. Title 41, Chapter 6, Article 10.
- D. The Department shall certify or recertify an EMT for two years:
  - 1. Except as provided in R9-25-405; or
  - 2. Unless revoked by the Department pursuant to A.R.S. § 36-2211.
- E. An individual whose EMT certificate is expired shall not apply for recertification, unless the individual has been granted an extension to file an application for EMT recertification under R9-25-407 or submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the EMT certification as provided in R9-25-406.
- F. An individual whose EMT certificate is expired or denied by the Department may apply for certification pursuant to R9-25-404 or, if applicable, R9-25-405.
- G. The Department shall keep confidential all criminal justice information received from the Department of Public Safety or any local, state, tribal, or federal law enforcement agency and shall not make this information available for public record review.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2).

**R9-25-402. EMT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), and 36-2204(1), (6), and (7))**

- A. The Department shall not certify an EMT if the applicant:
  - 1. Is currently:
    - a. Incarcerated for a criminal conviction,
    - b. On parole for a criminal conviction,
    - c. On supervised release for a criminal conviction, or
    - d. On probation for a criminal conviction;
  - 2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
    - a. 1st or 2nd degree murder;
    - b. Attempted 1st or 2nd degree murder;
    - c. Sexual assault;
    - d. Attempted sexual assault;
    - e. Sexual abuse of a minor;
    - f. Attempted sexual abuse of a minor;
    - g. Sexual exploitation of a minor;
    - h. Attempted sexual exploitation of a minor;
    - i. Commercial sexual exploitation of a minor;

- j. Attempted commercial sexual exploitation of a minor;
- k. Molestation of a child;
- l. Attempted molestation of a child; or
- m. A dangerous crime against children as defined in A.R.S. § 13-604.01;
- 3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
- 4. Within five years before the date of filing an application for certification required by this Article, has had EMT certification or recertification revoked in this state or EMT certification, recertification, or licensure revoked in any other state or jurisdiction; or
- 5. Knowingly provides false information in connection with an application required by this Article.
- B. The Department shall not recertify an EMT, if:
  - 1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
  - 2. The applicant knowingly provides false information in connection with an application required by this Article.
- C. The Department shall certify or recertify an EMT who:
  - 1. Is at least 18 years of age;
  - 2. Is not ineligible for:
    - a. Certification pursuant to subsection (A), or
    - b. Recertification pursuant to subsection (B); and
  - 3. Meets the applicable requirements in R9-25-404, R9-25-405, or R9-25-406.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-403. EMT Probationary Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), and 36-2204(1), (6), and (7))**

- A. The Department shall make probation a condition of certification under R9-25-404 or temporary certification under R9-25-405, if within two years before the date of filing an application for certification required by this Article, an applicant who is not ineligible for certification under R9-25-402 has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
  - 1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, unless the conviction has been absolutely discharged, expunged, or vacated; or
  - 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, unless the conviction has been absolutely discharged, expunged, or vacated.
- B. The Department shall fix the period and terms of probation that will:
  - 1. Protect the public health and safety, and
  - 2. Remediate and educate the applicant.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-404. Application Requirements for EMT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))**

A. An applicant for initial EMT certification shall submit to the Department an application including:

1. An application form provided by the Department containing:
  - a. The applicant's name, address, telephone number, date of birth, and Social Security number;
  - b. Responses to questions addressing the applicant's criminal history pursuant to R9-25-402(A) and R9-25-403(A);
  - c. Attestation that all information required as part of the application has been submitted and is true and accurate; and
  - d. The applicant's signature and date of signature;
2. For each affirmative response to a question addressing the applicant's criminal history pursuant to R9-25-402(A) or R9-25-403(A), a detailed explanation and supporting documentation; and
3. If applicable, a copy of EMT certification, recertification, or licensure issued to the applicant in another state or jurisdiction.

B. In addition to the application, the following are required:

1. For EMT-B certification, both:
  - a. A certificate of course completion signed by the training program director designated for the course session for either the:
    - i. Arizona EMT-B course, as defined in R9-25-305; or
    - ii. Arizona EMT-B refresher, as defined in R9-25-306, if the applicant has current certification, licensure, NREMT registration, or NREMT reregistration eligibility at the basic emergency medical technician level or higher level; and
  - b. Evidence of current NREMT-Basic registration;
2. For EMT-I(99) certification, both:
  - a. A certificate of course completion signed by the training program director designated for the course session for either the:
    - i. Arizona EMT-I course, as defined in R9-25-307; or
    - ii. Arizona ALS refresher, as defined in R9-25-309, if the applicant has current certification, licensure, NREMT registration, or NREMT reregistration eligibility at the intermediate emergency medical technician level or higher level; and
  - b. Evidence of current NREMT-Intermediate registration; or
3. For EMT-P certification, both:
  - a. A certificate of course completion signed by the training program director designated for the course session for the:
    - i. Arizona EMT-P course, as defined in R9-25-308;
    - ii. Arizona ALS refresher, as defined in R9-25-309, if the applicant has current certification, licensure, NREMT registration, or NREMT reregistration eligibility at the paramedic emergency medical technician level; or
    - iii. Arizona EMT-I(99)-to-EMT-P transition course; and
  - b. Evidence of current NREMT-Paramedic registration.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-405. Application Requirements for Temporary Nonrenewable EMT-B or EMT-P Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2202(G), and 36-2204(1), (6), and (7))**

- A. An individual who holds current NREMT-Basic registration, but does not meet requirements in R9-25-404(B)(1)(a), may apply for one temporary six-month EMT-B certification.
- B. An individual who holds current NREMT-Paramedic registration, but does not meet application requirements in R9-25-404(B)(3)(a), may apply for one temporary six-month EMT-P certification.
- C. An applicant for temporary certification shall submit to the Department a copy of current NREMT registration and an application required in R9-25-404(A).
- D. The Department shall certify an applicant who meets certification requirements under this Section for six months.
- E. The Department shall automatically certify an EMT who holds a six month certificate for an additional 18 months, if the EMT:
  1. Continues to hold current NREMT-Basic registration or current NREMT-Paramedic registration; and
  2. Before the expiration of the six month certificate, meets the applicable application requirements in R9-25-404(B).
- F. The Department shall issue an EMT who complies with subsection (E) a new certificate that expires 24 months from the date the six month certificate is issued.
- G. An EMT who is not certified under subsection (E):
  1. Shall not act as an EMT after the expiration date of the six month certificate,
  2. Is not eligible to apply for another six month certificate under this Section,
  3. Shall not apply for recertification, and
  4. May apply for certification pursuant to R9-25-404.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-406. Application Requirements for EMT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (G) and 36-2204(1), (4), and (6))**

- A. An individual who holds current and valid certification as an EMT in Arizona may, before the expiration date of the individual's current EMT certification, apply for recertification at the same level of EMT certification currently held or at a lower level of EMT certification.
- B. An individual whose certification as an EMT in Arizona has an expiration date within the past 30 days may apply for recertification at the same level of EMT certification or at a lower level of EMT certification.
- C. To apply for recertification, an applicant shall submit to the Department an application including:
  1. An application form provided by the Department containing:
    - a. The applicant's name, address, telephone number, date of birth, and Social Security number;
    - b. Responses to questions addressing the applicant's criminal history pursuant to R9-25-402(A)(3), R9-25-402(B)(1), and R9-25-411(A);

- c. An indication of the level of EMT certification currently held or with an expiration date within the past 30 days and of the level of EMT certification for which recertification is requested;
    - d. Attestation that all information required as part of the application has been submitted and is true and accurate; and
    - e. The applicant's signature and date of signature;
  - 2. For each affirmative response to a question addressing the applicant's criminal history pursuant to R9-25-402(A)(3), R9-25-402(B)(1), and R9-25-411(A), a detailed explanation and supporting documentation; and
  - 3. If applicable, a copy of each EMT certification, recertification, or licensure issued to the applicant in another state or jurisdiction that the applicant holds.
- D.** In addition to the application, an applicant shall submit the following to the Department:
- 1. For EMT-B recertification, either:
    - a. A certificate of course completion signed by the training program director designated for the course session showing that within two years before the expiration date of the applicant's current certificate, the applicant completed either the:
      - i. Arizona EMT-B refresher, as defined in R9-25-306; or
      - ii. Arizona EMT-B refresher challenge examination, as defined in R9-25-306; or
    - b. Evidence of current NREMT-Basic registration;
  - 2. For EMT-I(99) recertification, either:
    - a. Attestation that the applicant:
      - i. Has completed continuing education as required under subsection (E), and
      - ii. Has and will maintain for Department review documentation verifying completion of continuing education as required under subsection (E); or
    - b. Evidence of current NREMT-Intermediate registration;
  - 3. For EMT-P recertification, either:
    - a. Attestation that the applicant:
      - i. Has completed continuing education as required under subsection (E), and
      - ii. Has and will maintain for Department review documentation verifying completion of continuing education as required under subsection (E); or
    - b. Evidence of current NREMT-Paramedic registration; and
  - 4. For an application submitted within 30 days after the expiration date of EMT certification, a nonrefundable certification extension fee of \$150 in the form of a certified check, business check, or money order made payable to the Arizona Department of Health Services.
- E.** An EMT required to attest to completion of continuing education under subsection (D)(2)(a) or (D)(3)(a) shall complete 60 clock hours of continuing education in the two years before the expiration date of the EMT's current certification or, if applicable, before the end of an extension period granted under R9-25-407, as follows:
- 1. Seven clock hours through proficiency in cardiopulmonary resuscitation and proficiency in advanced emergency cardiac life support;
  - 2. No more than 48 clock hours for completion of the Arizona ALS refresher;
  - 3. No more than 12 clock hours for passing the Arizona ALS refresher challenge examination;
  - 4. No more than 20 clock hours of training in a single subject covered in the Arizona EMT-I course, the Arizona EMT-P course, or the Arizona ALS refresher;
  - 5. No more than 20 clock hours of teaching in a single subject covered in the Arizona EMT-I course, the Arizona EMT-P course, or the Arizona ALS refresher;
  - 6. No more than 20 clock hours of training related to skills, procedures, or treatments authorized under Article 5 of this Chapter;
  - 7. No more than 20 clock hours of teaching related to skills, procedures, or treatments authorized under Article 5 of this Chapter;
  - 8. No more than 20 clock hours of training in current developments, skills, procedures, or treatments related to the practice of emergency medicine or the provision of emergency medical services;
  - 9. No more than 20 clock hours of participation in or attendance at meetings, conferences, presentations, seminars, or lectures designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of emergency medicine or the provision of emergency medical services;
  - 10. No more than 16 clock hours of training in advanced trauma life support;
  - 11. No more than 16 clock hours of training in pediatric emergency care; and
  - 12. If the individual is certified as an EMT-I(85) and desires to apply for recertification as an EMT-I(99) as provided under R9-25-412, by completing the Arizona EMT-Intermediate transition course, defined in R9-25-301.
- F.** The Department shall not issue recertification as an EMT-I(85).
- G.** If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMT certification, the individual:
- 1. Was authorized to act as an EMT during the period between the expiration date of the individual's EMT certification and the date the application was submitted, and
  - 2. Is authorized to act as an EMT until the Department makes a final determination on the individual's application for recertification.
- H.** If an individual does not submit an application for recertification before the expiration date of the individual's EMT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMT certification, the individual:
- 1. Was not authorized to act as an EMT during the 30-day period after the expiration date of the individual's EMT certification, and
  - 2. Is not eligible for recertification.
- I.** The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2).

**R9-25-407. Extension to File an Application for EMT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (6), 36-2202(G), and 36-2204(1), (4), (5), and (7))**

- A. Before the expiration of a current certificate, an EMT who is unable to meet the recertification requirements in R9-25-406 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for one extension of time to file for recertification.
- B. The Department may grant one extension of time to file for recertification:
  - 1. For personal or family illness, for no more than 180 days; or
  - 2. For military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification remains certified pursuant to the conditions of A.R.S. § 41-1092.11.
- D. An EMT who does not meet the recertification requirements in R9-25-406 within the extension period or has the application for recertification denied by the Department:
  - 1. Is not eligible to apply for recertification; and
  - 2. May apply for certification pursuant to R9-25-404, or if applicable, R9-25-405.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-408. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (G) and 36-2204(1) and (6))**

- A. An individual who holds current and valid EMT certification at a level higher than EMT-B and who is not under investigation pursuant to A.R.S. § 36-2211 may apply for continued certification at a lower EMT level for the remainder of the certification period by submitting to the Department:
  - 1. A written request containing:
    - a. The EMT's name, address, telephone number, date of birth, and Social Security number;
    - b. The lower EMT-level requested;
    - c. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
    - d. Attestation that all information submitted is true and accurate; and
    - e. The applicant's signature and date of signature; and
  - 2. Either:
    - a. A written statement from the EMT's administrative medical director attesting that the EMT is able to perform at the lower level of certification requested; or
    - b. If applying for continued certification as an EMT-B, an Arizona EMT-B refresher certificate of completion or an Arizona EMT-B refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT-B refresher session.
- B. An individual who holds current and valid EMT certification at a level higher than EMT-B and who is not under investigation pursuant to A.R.S. § 36-2211 may apply for recertification at a lower level pursuant to R9-25-406.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9

A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-409. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3) and (A)(4), 36-2204(1) and (6), and 36-2211)**

- A. No later than 30 days after the date an EMT's name legally changes, the EMT shall submit to the Department:
  - 1. A completed form provided by the Department containing:
    - a. The name under which the EMT is currently certified by the Department;
    - b. The EMT's address, telephone number, and Social Security number; and
    - c. The EMT's new name; and
  - 2. Documentation showing that the name has been legally changed.
- B. No later than 30 days after the date an EMT's address changes, the EMT shall submit to the Department a completed form provided by the Department containing:
  - 1. The EMT's name, telephone number, and Social Security number; and
  - 2. The EMT's new address.
- C. An EMT shall notify the Department in writing no later than 10 days after the date the EMT:
  - 1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
  - 2. Is convicted of a crime listed in R9-25-402(A)(2), a misdemeanor involving moral turpitude, or a felony in this state or any other state or jurisdiction;
  - 3. Is convicted of a misdemeanor identified in R9-25-403(A) in this state or any other state or jurisdiction;
  - 4. Has registration revoked or suspended by NREMT; or
  - 5. Has EMT certification, recertification, or licensure revoked or suspended in another state or jurisdiction.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-410. EMT Standards of Practice (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), 36-2204(1), (6) and (7), 36-2205, and 36-2211)**

An EMT shall act as an EMT only:

- 1. As authorized under the EMT's scope of practice as identified under Article 5 of this Chapter; and
- 2. For an EMT required to have medical direction pursuant to A.R.S. Title 36, Chapter 21.1 and R9-25-201, as authorized under:
  - a. Treatment protocols, triage protocols, and communication protocols approved by the EMT's administrative medical director; and
  - b. Medical recordkeeping, medical reporting, and pre-hospital incident history report requirements approved by the EMT's administrative medical director.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-411. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (A)(6), 36-2202(G), 36-2204(1), (6) and (7), and 36-2211)**

- A. For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMT that is contrary to

the recognized standards or ethics of the EMT profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including but not limited to:

1. Impersonation of an EMT of a higher level of certification or impersonation of a health professional as defined in A.R.S. § 32-3201;
  2. Permitting or allowing another individual to use the EMT certification for any purpose;
  3. Aiding or abetting an individual who is not certified pursuant to this Chapter in acting as an EMT or in representing that the individual is certified as an EMT;
  4. Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, with a patient while acting as an EMT;
  5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMT;
  6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;
  7. Failing or refusing to maintain adequate records on a patient;
  8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
  9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMT certification or EMT recertification contained in this Article, including the requirements established for:
    - a. Completing and passing a course provided by a training program; and
    - b. The NREMT examination process and NREMT registration process;
  10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
  11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
  12. Being convicted of a misdemeanor identified in R9-25-403(A), which has not been absolutely discharged, expunged, or vacated;
  13. Having NREMT registration revoked or suspended by NREMT for material noncompliance with NREMT rules or standards; and
  14. Having EMT certification, recertification, or licensure revoked or suspended in another state or jurisdiction.
- B.** Under A.R.S. § 36-2211, physical or mental incompetence of an EMT is the EMT's lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C.** Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMT's willful act or willful omission of an act that is made in disregard of an individual's life, health, or safety and that may cause death or injury.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### Exhibit I. Repealed

##### Historical Note

Exhibit I adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### Exhibit J. Repealed

##### Historical Note

Exhibit J adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### Exhibit K. Repealed

##### Historical Note

Exhibit K adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

#### R9-25-412. Expired

##### Historical Note

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

### ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL TECHNICIANS

*Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).*

*Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

#### R9-25-501. Protocol for Administration of a Tuberculin Skin Test by an EMT-I(99) or EMT-P

- A.** After meeting the training requirement in subsection (B), an EMT-I(99) or EMT-P may administer a tuberculin skin test.
- B.** An EMT-I(99) or EMT-P shall not administer a tuberculin skin test until the EMT-I(99) or EMT-P has completed training that:
1. Includes at least two clock hours covering:
    - a. The supplies needed to perform tuberculin skin testing;
    - b. Storage and handling of tuberculin solution, including the need to verify that the tuberculin solution is the correct strength, is not expired, and was not opened more than 30 days before tuberculin skin testing;
    - c. Preparation of an individual for tuberculin skin testing, including:
      - i. Verifying the individual's identity;
      - ii. Determining whether the individual has any allergies or contraindications for tuberculin skin testing; and
      - iii. Verifying that the individual is available to report to a specific location to have the tuberculin skin test read within 48-72 hours after the tuberculin skin test is administered;
    - d. Administration of the tuberculin skin test, including preparation of the test site, preparation of the appropriate dosage, and the technique for administration;
    - e. Documentation of tuberculin skin test administration;
    - f. Post-administration instructions to be provided to an individual being tested; and
    - g. A practical skills exercise that includes performance of the skill using sterile saline in the arm of a volunteer;
  2. Includes a post-training written evaluation and a practical skills evaluation to ensure that the EMT-I(99) or EMT-P demonstrates competency in the subject matter listed in subsection (B)(1) and in correctly administering a tuber-



- culin skin test, with a score of at least 80% required to demonstrate competency on the written evaluation; and
- 3. Is approved by the EMT-I(99)'s or EMT-P's administrative medical director.

C. An EMT-I(99) or EMT-P who completes the tuberculin skin test training required in subsection (B) shall submit written evidence to each emergency medical services provider or ambulance service the EMT-I(99) or EMT-P is employed by or volunteers for, that the EMT-I(99) or EMT-P has completed the tuberculin skin test training required in subsection (B), that includes:

- 1. The name of the tuberculin skin test training,
- 2. The date the tuberculin skin test training was completed, and
- 3. A signed and dated attestation from the administrative medical director that the tuberculin skin test training is approved by the administrative medical director.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3).

#### R9-25-502. EMT's Scope of Practice

An EMT shall perform a medical treatment, procedure, or technique and administer a medication only:

- 1. Under medical direction if required in A.R.S. Title 36, Chapter 21.1 and R9-25-201;
- 2. As prescribed in the EMT-B, EMT-I, or EMT-P training curriculum required for Arizona certification or NREMT registration;
- 3. In a manner consistent with R9-25-410; and
- 4. According to protocols established in this Article.

#### Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

#### R9-25-503. Protocol for an EMT to Administer, Monitor, or Assist in Patient Self-Administration of an Agent

A. An EMT may administer an agent to a patient or other individual if:

- 1. Table 1 indicates that an EMT with the certification held by the EMT may administer the agent;
- 2. The EMT's administration of the agent complies with any requirements included in this Article related to administration of the agent;
- 3. The EMT is authorized to administer the agent by:
  - a. The EMT's administrative medical director; or
  - b. For an EMT-B who does not have an administrative medical director, the emergency medical services provider the EMT-B is employed by or volunteers for; and
- 4. Administering the agent to the patient or other individual is consistent with any administrative medical direction and on-line medical direction received by the EMT.

B. Except as provided in subsection (F), when an EMT administers an agent, the EMT shall document the administration on a prehospital incident history report, as defined in A.R.S. § 36-2220, including at least:

- 1. Patient name, if available;

- 2. Agent name;
- 3. Indications for administration;
- 4. Dose administered;
- 5. Route of administration;
- 6. Date and time of administration; and
- 7. Observed patient response to administration of the agent.

C. An EMT shall comply with the written standard operating procedure adopted by the emergency medical services provider the EMT is employed by or volunteers for as required under R9-25-204(F)(6) or R9-25-210(D)(3), if applicable.

D. An EMT may monitor an agent listed in Table 1 if:

- 1. Table 1 indicates that an EMT with the certification held by the EMT may monitor or administer the agent;
- 2. The EMT has completed training in administration of the agent that included at least the following information about the agent:
  - a. Class,
  - b. Mechanism of action,
  - c. Indications and field use,
  - d. Contraindications,
  - e. Adverse reactions,
  - f. Incompatibilities and drug interactions,
  - g. Adult dosage,
  - h. Pediatric dosage,
  - i. Route of administration,
  - j. Onset of action,
  - k. Peak effects,
  - l. Duration of action,
  - m. Dosage forms and packaging,
  - n. Required Arizona minimum supply, and
  - o. Special considerations;
- 3. If the agent is administered via an infusion pump, the EMT has completed training in the operation of the infusion pump;
- 4. If the agent is administered via a small volume nebulizer, the EMT has completed training in the operation of the small volume nebulizer; and
- 5. If the agent is administered via a central line, the EMT is an EMT-P.

E. An EMT who completes the training required in subsections (D)(2) through (4) shall submit written evidence to each emergency medical services provider or ambulance service the EMT is employed by or volunteers for, that the EMT has completed the training required in subsections (D)(2) through (4), that includes:

- 1. The name of the training,
- 2. The date the training was completed, and
- 3. A signed and dated attestation from the administrative medical director that the training is approved by the administrative medical director.

F. An EMT may assist in patient self-administration of an agent if:

- 1. Table 1 indicates that an EMT with the certification held by the EMT may administer or assist in patient self-administration of the agent;
- 2. The agent is supplied by the patient;
- 3. The patient or, if the patient is a minor or incapacitated adult, the patient's health care decision maker indicates that the agent is currently prescribed for the patient's symptoms; and
- 4. The agent is in its original container and not expired.

G. Before administering an immunizing agent to an individual, an EMT-I(99) or EMT-P shall:

- 1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;

2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
  3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.
- H.** “Immunizing agent” means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3).

**Table 1. Authorization for Administration, Monitoring, and Assistance in Patient Self-administration of Agents by EMT Certification; Identification of Transport Agents; Administration Requirements; and Minimum Supply Requirements for Agents**

**KEY:**

A = Authorized to administer the agent

AL = Authorization to administer the agent is limited to use in a successfully intubated patient

HF = Only authorized as a topical antidote for possible exposure to hydrofluoric acid

E = Only authorized to administer or assist in patient self-administration of the agent in the case of an emergency involving a neurological toxin which is confirmed or suspected by an EMT, except as provided in R9-25-507

M = Authorized to monitor IV administration of the agent during interfacility transport, if the IV was started at the sending health care institution

PA = Authorized to assist in patient self-administration of the agent

TA = Transport agent for an EMT with the specified certification

IFIP = Agent shall be administered by infusion pump on interfacility transports

IP = Agent shall be administered by infusion pump

SVN = Agent shall be administered by small volume nebulizer

SVN or MDI = Agent shall be administered by small volume nebulizer or metered dose inhaler

\* = Optional agent for a BLS ambulance that is not primarily serving as the first emergency medical services provider arriving on scene in response to an emergency dispatch

\*\* = The minimum supply for an EMT assigned to respond by bicycle or on foot is 2 cubic feet

\*\*\* = An EMT-B may administer if authorized under R9-25-505

[ ] = Minimum supply required if an EMS provider chooses to make the optional agent available for EMT administration

AGENT	MINIMUM SUPPLY	EMT-P	EMT-I(99)	EMT-B
Adenosine	30 mg	A	A	-
Albuterol Sulfate <sup>SVN or MDI</sup> (sulfite free)	10 mg	A	A	-
Amiodarone <sup>IFIP</sup>	Optional [300 mg]	A	-	-
Antibiotics	None	TA	TA	-
Aspirin	324 mg	A	A	A
Atropine Sulfate	4 prefilled syringes, total of 4 mg	A	A	-
Atropine Sulfate	8 mg multidose vial (1)	A	A	-
Atropine Sulfate Auto-Injector	None	A	A	E
Atropine Sulfate and Pralidoxime Chloride (Combined) Auto-Injector	None	E	E	E
Blood	None	TA	-	-
Bronchodilator, inhaler	None	PA	PA	PA
Calcium Chloride	1 g	A	-	-
Calcium Gluconate, 2.5% topical gel	Optional [50 g]	HF	HF	HF
Charcoal, Activated (without sorbitol)	Optional [50 g]	A	A	A
Colloids	None	TA	TA	-
Corticosteroids <sup>IP</sup>	None	TA	TA	-
Dexamethasone	Optional [8 mg]	A	A	-

## Department of Health Services – Emergency Medical Services

AGENT	MINIMUM SUPPLY	EMT-P	EMT-I(99)	EMT-B
Dextrose	50 g	A	A	-
Dextrose, 5% in H <sub>2</sub> O	Optional [250 mL bag (1)]	A	A	M***
Diazepam or Lorazepam or Midazolam	20 mg 8mg 10mg	A A A	A A A	- - -
Diazepam Rectal Delivery Gel	Optional [20 mg]	A	A	-
Diltiazem <sup>IFIP</sup> or Verapamil HCl	25 mg 10 mg	A A	- -	- -
Diphenhydramine HCl	50 mg	A	A	-
Diuretics	None	TA	TA	-
Dopamine HCl <sup>IFIP</sup>	400 mg	A	-	-
Electrolytes/Crystalloids (Commercial Preparations)	None	TA	TA	M
Epinephrine Auto-Injector	2 adult auto-injectors* 2 pediatric auto-injectors*	-	-	A
Epinephrine Auto-Injector	Optional [2 adult auto-injectors 2 pediatric auto-injectors]	A	A	-
Epinephrine HCl, 1:1,000	2 mg	A	A	-
Epinephrine HCl, 1:1,000	30 mg multidose vial (1)	A	A	-
Epinephrine HCl, 1:10,000	5 mg	A	A	-
Etomidate	Optional [40 mg]	A	-	-
Fosphenytoin Na <sup>IP</sup> or Phenytoin Na <sup>IP</sup>	None None	TA TA	- -	- -
Furosemide or Bumetanide	100 mg 4 mg	A A	A A	- -
Glucagon <sup>IFIP</sup>	2 mg	A	A	-
Glucose, oral	Optional [30 gm]	A	A	A
Glycoprotein IIb/IIIa Inhibitors	None	TA	-	-
H <sub>2</sub> Blockers	None	TA	TA	-
Heparin Na <sup>IP</sup>	None	TA	-	-
Immunizing Agent	Optional	A	A	-
Ipratropium Bromide 0.02% <sup>SVN</sup> or MDI	5 mL	A	A	-
Lactated Ringers	1 L bag (2)	A	A	M***
Lidocaine HCl IV	3 prefilled syringes, total of 300 mg 1 g vials or premixed infusion, total of 2 g	A	A	-
Magnesium Sulfate <sup>IFIP</sup>	5 g	A	-	-
Methylprednisolone Sodium Succinate	250 mg	A	A	-
Morphine Sulfate or Fentanyl	20 mg 200 µg	A A	A A	- -
Nalmefene HCl	Optional [4 mg]	A	A	-
Naloxone HCl	10 mg	A	A	-
Nitroglycerin IV Solution <sup>IP</sup>	None	TA	-	-
Nitroglycerin Sublingual Spray or Nitroglycerin Tablets	1 bottle 1 bottle	A A	A A	PA PA

AGENT	MINIMUM SUPPLY	EMT-P	EMT-I(99)	EMT-B
Nitrous Oxide	Optional [Nitrous oxide 50% / Oxygen 50% fixed ratio setup with O <sub>2</sub> fail-safe device and self-administration mask, 1 setup]	A	A	-
Normal Saline	1 L bag (2) 250 mL bag (1) 50 mL bag (2)	A	A	M***
Ondansetron HCl	Optional [4 mg]	A	A	-
Oxygen	13 cubic feet**	A	A	A
Oxytocin	Optional [10 units]	A	A	-
Phenobarbital Na <sup>IP</sup>	None	TA	-	-
Phenylephrine Nasal Spray 0.5%	1 bottle	A	A	-
Potassium Salts <sup>IP</sup>	None	TA	-	-
Pralidoxime Chloride Auto-Injector	None	E	E	E
Procainamide HCl <sup>IP</sup>	None	TA	-	-
Racemic Epinephrine <sup>SVN</sup>	None	TA	-	-
Rocuronium	Optional [100 mg]	AL	-	-
Sodium Bicarbonate 8.4%	100 mEq	A	A	-
Succinylcholine	Optional [400 mg]	A	-	-
Theophylline <sup>IP</sup>	None	TA	-	-
Thiamine HCl	100 mg	A	A	-
Total Parenteral Nutrition, with or without lipids <sup>IFIP</sup>	None	TA	-	-
Tuberculin PPD	Optional [5 cc]	A	A	-
Vasopressin	Optional [40 units]	A	-	-
Vitamins	None	TA	TA	-

**Historical Note**

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4).

**Exhibit 1. Repealed****Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3). Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

**Exhibit 2. Repealed****Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

**Exhibit 3. Repealed****Historical Note**

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

**R9-25-504. Protocol for Selection of a Health Care Institution for Emergency Medical Patient Transport****A. In this Section:**

1. "Emergency receiving facility" means the same as in A.R.S. § 36-2201.
2. "Transfer care" means to relinquish to the control of another the ongoing medical treatment of an emergency medical patient.
3. "Special hospital" means the same as in A.A.C. R9-10-201.

**B. An EMT shall, except as provided in subsection (C), transport an emergency medical patient to:**

1. An emergency receiving facility, or
2. A special hospital that is physically connected to an emergency receiving facility.

**C. Under A.R.S. §§ 36-2205(E) and 36-2232(F), an EMT who responds to an emergency medical patient who has accessed 9-**

1-1 or a similar public dispatch number may refer, advise, or transport the emergency medical patient to the most appropriate health care institution, if the EMT:

1. Determines, based upon medical direction, that the emergency medical patient's condition does not pose an immediate threat to life or limb;
2. Provides the emergency medical patient with a written list of health care institutions that are available to deliver emergency medical care to the emergency medical patient. The list shall:
  - a. Include the name, address, and telephone number of each health care institution;
  - b. If a health care institution is licensed under A.R.S. Title 36, Chapter 4, identify the classification or sub-classification of the health care institution assigned under 9 A.A.C. 10; and
  - c. Only include a health care institution that the administrative medical director has determined is able to accept an emergency medical patient; and
3. Determines, based upon medical direction, the health care institution to which the emergency medical patient may be transported, based on the following:
  - a. The patient's:
    - i. Medical condition,
    - ii. Choice of health care institution, and
    - iii. Health care provider; and
  - b. The location of the health care institution and the emergency medical resources available at the health care institution.
- D. Before initiating transport of an emergency medical patient, an EMT, emergency medical services provider, or ambulance service shall notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility of the EMT's intent to transport the emergency medical patient to the health care institution.
- E. An EMT transporting an emergency medical patient to a health care institution that is not an emergency receiving facility shall transfer care of the emergency medical patient to a designee authorized by:
  1. A physician licensed under A.R.S. Title 32, Chapter 13 or 17;
  2. A physician assistant licensed under A.R.S. Title 32, Chapter 25; or
  3. A registered nurse licensed under A.R.S. Title 32, Chapter 15.
- F. Before implementing this rule, an emergency medical services provider or an ambulance service shall notify the Department in writing of the intent to implement the rule.

#### **Exhibit 1. Lecture/Lab Vascular Access for EMT-Basics**

Lecture/Lab

#### **Vascular Access for EMT-Basics**

Course Description:

Includes review of anatomy of the circulatory system. Skills will include peripheral intravenous cannulation techniques, fluid resuscitation, obtaining venous blood samples for laboratory analysis; infection control techniques for the safety of self and victim; complications of intravenous cannulation.

Prerequisites:

Certified EMT-Basic, under Medical Direction

Course Competencies:

This course is designed to develop the following course competencies:

1. Identify the need for fluid resuscitation in neonate, infant, pediatric, and adult victims (I);
2. Identify and describe the vascular anatomy and venous access for the neonate, infant, pediatric, and adult victims (II);

- G. An emergency medical services provider or an ambulance service that implements this rule shall make available for Department review and inspection written records relating to the transport of an emergency medical patient under subsections (C), (D), and (E).

#### **Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3).

#### **R9-25-505. Protocol for IV Access by an EMT-B**

- A. In this Section, unless the context otherwise requires, "EMS provider agency" means the emergency medical services provider or the ambulance service for whom the EMT-B is acting as an EMT-B.
- B. An EMT-B is authorized to perform IV access only after completing training that meets all requirements established in Exhibit 1.
- C. Before performing IV access, an EMT-B trained in IV access shall have received prior written approval from the EMT-B's EMS provider agency and from an administrative medical director who agrees to provide medical direction for the EMT-B.
- D. An EMT-B shall perform IV access only under "on line" medical direction, under standing orders approved by the administrative medical director, or under the direction of a currently certified EMT-I or EMT-P who is also attending the patient upon whom the EMT-B is to perform the procedure.
- E. The administrative medical director shall be responsible for quality assurance and skill maintenance, and shall record and maintain a record of the EMT-B's IV access attempts.
- F. An EMT-B trained in this optional procedure shall have a minimum of 5 IV starts per year. If less than 5, the EMT-B shall participate in a supervised base hospital clinical experience in which to obtain the minimum of 5 IV starts.

#### **Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

3. Identify and differentiate isotonic, hypotonic, and hypertonic solutions (III);
4. Select fluids; set up and manage equipment (IV);
5. Identify and demonstrate aseptic and safety techniques (V);
6. Identify and describe indications and contraindications for intravenous site selection (VI);
7. Perform all peripheral intravenous cannulation techniques (VII);
8. Perform blood drawing techniques (VIII);
9. Monitor infusion (IX);
10. Demonstrate 100% accuracy in intravenous techniques in selected scenarios (X);
11. Demonstrate 85% proficiency on a written examination (XI).

**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**Exhibit 2. Course Outline**

Vascular Access for EMT-Basic

**COURSE OUTLINE**

- I. Indications for Vascular Access
  - A. Restore fluid volume
  - B. Restore and maintain electrolyte balance
  - C. Administration of medications
  - D. Obtaining blood specimen
- II. Identification of common vascular sites
- III. Intravenous Solutions
  - A. Isotonic
  - B. Hypotonic
  - C. Hypertonic
  - D. Indications for each
- IV. Needle/Catheters and Intravenous Administration Sets
  - A. Types
  - B. Sizes
  - C. Administration sets
  - D. Set-up
- V. Asepsis and Safety
  - A. Site preparation
  - B. Universal precautions
  - C. “Sharp” disposal
- VI. Site selection
- VII. Peripheral Intravenous Cannulation
- VIII. Drawing Blood
  - A. Indication
  - B. Site preparation
  - C. Universal precautions
  - D. Labeling specimen(s)
  - E. “Sharp” disposal
  - F. Documentation
- IX. Monitoring the Intravenous Infusion
  - A. Calculation of rate of infusion
  - B. Signs and symptoms of infiltration and extravasation

- C. Techniques for removal
- D. Documentation
- X. Practicals
  - A. Mannequin
  - B. Human subjects
- XI. Final Written Examinations

**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**R9-25-506. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMT**

- A. Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMT or an emergency medical services provider.
- B. Before authorizing any test and evaluation pursuant to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C. The Department director shall consider approval of a test and evaluation conducted pursuant to subsection (A), only if a written request for testing and evaluation:
  - 1. Is submitted to the Department director from:
    - a. The Department,
    - b. A state agency other than the Department,
    - c. A political subdivision of this state,
    - d. An EMT,
    - e. An emergency medical services provider,
    - f. An ambulance service, or
    - g. A member of the public; and
  - 2. Includes:
    - a. A cover letter, signed and dated by the individual making the request;
    - b. An identification of the person conducting the test and evaluation;
    - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;
    - d. An explanation of the reasons for and the benefits of the test and evaluation;
    - e. The scope of the test and evaluation, including the:
      - i. Projected number of individuals, EMTs, emergency medical services providers, or ambulance services involved; and
      - ii. Proposed length of time required to complete the test and evaluation; and
    - f. The methodology to be used to evaluate the test's and evaluation's findings.
- D. The Department director shall approve a test and evaluation if:
  - 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;
  - 2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
  - 3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
    - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
    - b. Improve patient care; or
    - c. Benefit the public's health, safety, or welfare.
- E. Within 180 days of receiving a written request for testing and evaluation that contains all of the information in subsection

(C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.

- F. Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
  - 1. An identification of the test and evaluation;
  - 2. A detailed evaluation of the test; and
  - 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**R9-25-507. Protocol for an EMT-P to Practice Knowledge and Skills in a Hazardous Materials Incident**

- A. In this Section:
  - 1. "Hazardous materials" has the same meaning as in A.R.S. § 26-301.
  - 2. "Hazardous materials incident" has the same meaning as in A.R.S. § 26-301.
  - 3. "Drug" has the same meaning as in A.R.S. § 32-1901.
- B. An EMT-P is authorized to perform a medical treatment or administer a drug when responding to a hazardous materials incident only after meeting the hazardous materials training requirements in subsection (C) or (D).
- C. An EMT-P shall complete hazardous materials training that:
  - 1. Includes at least 16 clock hours covering the:
    - a. Principles of managing a hazardous materials incident;
    - b. Role of medical direction in the management of a hazardous materials incident;
    - c. Human and material resources necessary for the management of a hazardous materials incident;
    - d. Procedures and equipment necessary for personal protection in a hazardous materials incident;
    - e. Medical monitoring of emergency workers responding to a hazardous materials incident;
    - f. Types of hazardous materials to which an emergency medical patient may be exposed, including the toxicity and the signs and symptoms of each type;
    - g. Routes by which an emergency medical patient may be exposed to a hazardous material;
    - h. Decontamination of an emergency medical patient exposed to a hazardous material;
    - i. Assessment of an emergency medical patient exposed to a hazardous material, including a patient history and a physical examination of the patient;

- j. Medical management of an emergency medical patient exposed to each type of hazardous material;
  - k. Possible contents of a hazardous materials drug box; and
  - l. Pharmacokinetics of drugs which may be included in a hazardous materials drug box;
2. Requires the EMT-P to demonstrate competency in the subject matter listed in subsection (C)(1); and
  3. Is approved by the EMT-P's administrative medical director based upon a determination that the hazardous materials training meets the requirements in subsections (C)(1) and (C)(2).
- D.** Every 24 months after meeting the requirements in subsection (C), an EMT-P shall complete hazardous materials training that:
1. Includes subject matter listed in subsection (C)(1),
  2. Requires the EMT-P to demonstrate competency in the subject matter completed, and
  3. Is approved by the EMT-P's administrative medical director based upon a determination that the hazardous materials training meets the requirements in subsections (D)(1) and (D)(2).
- E.** An administrative medical director of an EMT-P who completes hazardous materials training required in subsection (C) or (D) shall:
1. Maintain for Department review and inspection written evidence that the EMT-P has completed hazardous materials training required in subsection (C) or (D), including at least:
    - a. The name of the hazardous materials training,
    - b. The date the hazardous materials training was completed, and
    - c. A signed and dated attestation from the administrative medical director that the hazardous materials training is approved; and
  2. Ensure that the EMT-P submits to each emergency medical services provider or ambulance service for which the EMT-P is acting as an EMT-P, the written evidence specified in subsections (E)(1)(a) and (E)(1)(b).
- F.** An EMT-P authorized under this Section to perform a medical treatment or administer a drug when responding to a hazardous materials incident may carry and administer drugs authorized under medical direction.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**R9-25-508. Protocol for an EMT-B to Perform Endotracheal Intubation**

- A.** Endotracheal intubation performed by an EMT-B is an advanced procedure that requires medical direction.
- B.** An EMT-B is authorized to perform endotracheal intubation only after completing training that:
  1. Meets all requirements established in the EMT-B Endotracheal Intubation Training Curriculum, dated January 1, 2004, incorporated by reference and on file with the Department, including no future editions or amendments; and available from the Department's Bureau of Emergency Medical Services; and
  2. Is approved by the EMT-B's administrative medical director.
- C.** An EMT-B shall perform endotracheal intubation as:

1. Prescribed in the EMT-B Endotracheal Intubation Training Curriculum, and
  2. Authorized by the EMT-B's administrative medical director.
- D.** The administrative medical director shall be responsible for quality assurance and skill maintenance, and shall record and maintain a record of the EMT-B's performance of endotracheal intubation.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**R9-25-509. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

**R9-25-510. Protocol for EMT-B Carrying and Administration of Aspirin (A.R.S. §§ 36-2202, 36-2204, 36-2205, and 36-2209)**

- A.** An EMT-B is authorized to carry aspirin for administration as described in subsection (B).
- B.** An EMT-B is authorized to administer aspirin only to an adult patient who is suffering from chest pain or other signs or symptoms suggestive of acute myocardial infarction.
- C.** An EMT-B's administration of aspirin to an adult patient who is suffering from chest pain or other signs or symptoms suggestive of acute myocardial infarction is not an advanced procedure that requires the EMT-B to have administrative medical direction and on-line medical direction.
- D.** For purposes of this Section, "adult" means 18 years of age or older.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2).

**Exhibit P. Repealed****Historical Note**

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-511. Protocol for EMT-B Use of an Esophageal Tracheal Double Lumen Airway Device (ETDLAD) (A.R.S. §§ 36-2202, 36-2204, 36-2205, and 36-2209)**

- A.** For an EMT-B, the ability to use an esophageal tracheal double lumen airway device (ETDLAD) is an optional skill attained by completing training for the use of an ETDLAD as prescribed in this Section.
- B.** Use of an ETDLAD is an advanced procedure, as defined in R9-25-101, that requires an EMT-B to have administrative



medical direction and the ability to receive online medical direction.

**C.** An EMT-B shall not use an ETDLAD until the EMT-B has completed training that:

1. Includes at least four clock hours covering:
  - a. Respiratory anatomy and physiology;
  - b. Respiratory assessment and basic airway management techniques;
  - c. The requirements of this Section;
  - d. The design and function of an ETDLAD;
  - e. The indications and contraindications for using an ETDLAD;
  - f. The advantages of and potential complications from using an ETDLAD;
  - g. The correct technique for inserting and managing an airway with an ETDLAD; and
  - h. Documenting the use of an ETDLAD;
2. Includes a post-training written evaluation and a practical skills evaluation to ensure that the EMT-B demonstrates competency in the subject matter listed in subsection (C)(1) and in correctly inserting and managing an airway with an ETDLAD, with a score of at least 80% required to demonstrate competency on the written evaluation; and
3. Is approved by the EMT-B's administrative medical director.

**D.** An EMT-B who has completed initial training as described in subsection (C) and who desires to maintain authorization to use an ETDLAD shall complete refresher training that complies with subsection (C) at least once every 24 months after completing the initial training.

**E.** An EMT-B shall use an ETDLAD only as authorized by the EMT-B's administrative medical director.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4).

**R9-25-512. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4).

**R9-25-513. Supplemental Skill Training Instructor Requirements**

**A.** A person who provides or oversees supplemental skill training to an EMT shall ensure that each individual who serves as an instructor for the supplemental skill training either:

1. Meets the qualifications for an instructor specified in the supplemental skill training curriculum or rule; or
2. If there are not qualifications for an instructor specified in the supplemental skill training curriculum or rule, meets the following:

a. Would qualify, under R9-25-312(D), to serve as a preceptor for a course at the level of EMT certification held by the EMT; and

b. If an EMT, is authorized to perform the supplemental skill as provided under this Article.

**B.** For purposes of this Section, "supplemental skill" means a proficiency acquired through additional training authorized under this Article.

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

**R9-25-514. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-515. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**ARTICLE 6. REPEALED**

*Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).*

**R9-25-601. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-602. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-603. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-604. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-605. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-606. Repealed**

**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section

repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-607. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-608. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-609. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit R. Repealed****Historical Note**

Exhibit R adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-610. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-611. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-612. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-613. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-614. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-615. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**R9-25-616. Repealed****Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit S. Repealed****Historical Note**

Exhibit S adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit G. Repealed****Historical Note**

Exhibit G adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit L. Repealed****Historical Note**

Exhibit L adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit M. Repealed****Historical Note**

Exhibit M adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit N. Repealed****Historical Note**

Exhibit N adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit O. Repealed****Historical Note**

Exhibit O adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**Exhibit Q. Repealed****Historical Note**

Exhibit Q adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

**ARTICLE 7. AIR AMBULANCE SERVICE LICENSING****R9-25-701. Definitions (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. “Advanced life support” means pertaining to a patient whose condition requires care commensurate with the scope of practice of an EMT-P.
2. “Air ambulance” means an aircraft that is an “ambulance” as defined in A.R.S. § 36-2201.
3. “Air ambulance service” means an ambulance service that operates an air ambulance.
4. “Applicant” means an owner requesting:
  - a. An initial or renewal air ambulance service license under Article 7 of this Chapter,
  - b. An initial or renewal air ambulance certificate of registration under Article 8 of this Chapter, or

- c. Transfer of an air ambulance service license under R9-25-706.
5. “Base location” means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
6. “Basic life support” means pertaining to a patient whose condition requires care commensurate with the scope of practice of an EMT-B.
7. “Business organization” means an entity such as an association, cooperative, corporation, limited liability company, or partnership.
8. “Call number” means a unique identifier used by an air ambulance service to identify a specific mission.
9. “CAMTS” means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
10. “Change of ownership” means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
11. “Convalescent transport” means conveyance of a patient at a prearranged time when either the patient’s original location or destination is not a health care institution.
12. “Critical care” means pertaining to a patient whose condition requires care commensurate with the scope of practice of a physician or registered nurse.
13. “Current” means up-to-date and extending to the present time.
14. “EMT” means “certified emergency medical technician,” as defined in A.R.S. § 36-2201.
15. “EMT-B” means “basic emergency medical technician,” as defined in A.R.S. § 36-2201.
16. “EMT-I” means “intermediate emergency medical technician,” as defined in A.R.S. § 36-2201.
17. “EMT-P” means “emergency paramedic,” as defined in A.R.S. § 36-2201.
18. “Estimated time of arrival” means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
19. “Health care institution” has the same meaning as in A.R.S. § 36-401.
20. “Holds itself out” means advertises through print media, broadcast media, the Internet, or other means.
21. “Interfacility” means between two health care institutions.
22. “Licensed respiratory care practitioner” has the same meaning as in A.R.S. § 32-3501.
23. “Maternal” means pertaining to a woman whose pregnancy is considered by a physician to be high risk, who is in need of critical care services related to the pregnancy, and who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
24. “Medical direction” has the same meaning as in R9-25-101.
25. “Medical team” means personnel whose main function on a mission is the medical care of the patient being transported.
26. “Mission” means a transport job that involves an air ambulance service’s sending an air ambulance to a patient’s location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
27. “Neonatal” means pertaining to an infant who is 28 days of age or younger and who is in need of critical care services.
28. “On-line medical direction” has the same meaning as in R9-25-101.
29. “On-line medical guidance” means emergency medical services direction or information provided to a non-EMT medical team member by a physician through two-way voice communication.
30. “Operate an air ambulance in this state” means:
- Transporting a patient via air ambulance from a location in this state to another location in this state;
  - Operating an air ambulance from a base location in this state; or
  - Transporting a patient via air ambulance from a location in this state to a location outside of this state more than once per month.
31. “Owner” means a person that holds a controlling legal or equitable interest and authority in a business enterprise.
32. “Patient” has the same meaning as in R9-25-101.
33. “Patient reference number” means a unique identifier used by an air ambulance service to identify an individual patient.
34. “Pediatric” means for use in the treatment of children or other individuals whose size falls within the scope of a pediatric equipment sizing reference guide.
35. “Pediatric equipment sizing reference guide” means a chart or device, such as a Broselow™ tape, used to determine the size of medical equipment to be used for a patient who is a child or of small stature, generally based on either patient length or age and weight.
36. “Person” means:
- An individual;
  - A business organization; or
  - An administrative unit of the U.S. government, state government, or a political subdivision of the state.
37. “Personnel” means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
38. “Premises” means each physical location of air ambulance service operations and includes all equipment and records at each location.
39. “Proficiency in neonatal resuscitation” means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
40. “Publicizes” means makes a good faith effort to communicate information to the general public through print media, broadcast media, the Internet, or other means.
41. “Registered nurse” has the same meaning as in A.R.S. § 32-1601.
42. “Regularly” means at recurring, fixed, or uniform intervals.
43. “Rescue situation” means an incident in which:
- An individual’s life, limb, or health is imminently threatened; and
  - The threat may be reduced or eliminated by removing the individual from the situation and providing medical services.
44. “Scene” means the location of the patient to be transported or the closest point to the patient at which an air ambulance can arrive.
45. “Subspecialization” means:

- a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
  - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
  - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
46. “Two-way voice communication” means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.
47. “Valid” means that a license, certification, or other form of authorization is in full force and effect and not suspended.
48. “Working day” means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)**

This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-703. Requirement and Eligibility for a License (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

- A.** A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under Article 8 of this Chapter.
- B.** To be eligible to obtain an air ambulance service license, an applicant shall:
  - 1. Hold current and valid Registration and Exemption under 14 CFR 298, as evidenced by a current and valid OST Form 4507 showing the effective date of registration;
  - 2. Hold the following issued by the Federal Aviation Administration:
    - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;
    - b. If operating a rotor-wing air ambulance, current and valid Operations Specifications authorizing aeromedical helicopter operations;
    - c. If operating a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
    - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
    - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
  - 3. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance to be operated by the air ambulance service;

- 4. Hold a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each air ambulance to be operated by the air ambulance service;
  - 5. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following maximum liability limits:
    - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
    - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
    - c. \$500,000 for damage to property arising from any one incident or accident;
  - 6. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
  - 7. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C.** To maintain eligibility for an air ambulance service license, an air ambulance service shall meet the requirements of subsections (B)(1)-(2) and (4)-(7) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each air ambulance operated by the air ambulance service.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-704. Initial Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)**

- A.** To obtain an initial license, an applicant shall submit to the Department an application completed using a Department-provided form and including:
  - 1. The applicant’s name; mailing address; fax number, if any; and telephone number;
  - 2. Each business name to be used for the air ambulance service;
  - 3. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant’s mailing address;
  - 4. The name, title, address, and telephone number of the applicant’s statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;
  - 5. If the applicant is a business organization:
    - a. The type of business organization;
    - b. The following information about the individual who is to serve as the primary contact for information regarding the application:
      - i. Name;
      - ii. Address;
      - iii. Telephone number; and
      - iv. Fax number, if any;
    - c. The name, title, and address of each officer and board member or trustee; and
    - d. A copy of the business organization’s articles of incorporation, articles of organization, or partnership or joint venture documents, if applicable;
  - 6. The name and Arizona license number for the physician who is to serve as the medical director for the air ambulance service;

## Department of Health Services – Emergency Medical Services

7. The intended hours of operation for the air ambulance service;
  8. The intended schedule of rates for the air ambulance service;
  9. The scope of the mission types to be provided, including whether each of the following is to be provided:
    - a. Emergency medical services transports;
    - b. Interfacility transports;
    - c. Interfacility maternal transports;
    - d. Interfacility neonatal transports; and
    - e. Convalescent transports;
  10. A copy of a current and valid OST Form 4507 showing the effective date of registration and exemption under 14 CFR 298;
  11. A copy of the following issued by the Federal Aviation Administration:
    - a. A current and valid Air Carrier Certificate authorizing common carriage under 14 CFR 135;
    - b. If intending to operate a rotor-wing air ambulance, current and valid Operations Specifications authorizing aeromedical helicopter operations;
    - c. If intending to operate a fixed-wing air ambulance, current and valid Operations Specifications authorizing airplane air ambulance operations;
    - d. A current and valid Certificate of Registration for each air ambulance to be operated; and
    - e. A current and valid Airworthiness Certificate for each air ambulance to be operated;
  12. For each air ambulance to be operated for the air ambulance service:
    - a. An application for registration that includes all of the information and items required under R9-25-802(C); and
    - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
  13. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(5);
  14. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(6);
  15. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report;
  16. Attestation that the applicant knows all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1;
  17. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete; and
  18. The dated signature of:
    - a. If the applicant is an individual, the individual;
    - b. If the applicant is a corporation, an officer of the corporation;
    - c. If the applicant is a partnership, one of the partners;
    - d. If the applicant is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
    - e. If the applicant is an association or cooperative, a member of the governing board of the association or cooperative;
    - f. If the applicant is a joint venture, one of the individuals signing the joint venture agreement;
    - g. If the applicant is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
    - h. If the applicant is a business organization type other than those described in subsections (A)(18)(b) through (f), an individual who is a member of the business organization.
- B.** Unless an applicant establishes that it holds current CAMTS accreditation as provided in subsection (C) or is applying for an initial license because of a change in ownership as described in R9-25-706(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the application for an initial license.
  - C.** To establish current CAMTS accreditation, an applicant shall submit to the Department a copy of its current CAMTS accreditation report, as provided in subsection (A)(15).
  - D.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
  - E.** The Department may deny an application if an applicant:
    1. Fails to meet the eligibility requirements of R9-25-703(B);
    2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
    3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
    4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
    5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-705. Renewal Application and Licensing Process (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)**

- A.** Before the expiration date of its current license, an air ambulance service shall submit to the Department a renewal application completed using a Department-provided form and including:
  1. The information and items listed in R9-25-704(A)(1)-(11), (12)(b), and (13)-(18); and
  2. For each air ambulance operated or to be operated by the air ambulance service:
    - a. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter; or
    - b. An application for registration that includes all of the information and items required under R9-25-802(C).
- B.** Unless an air ambulance service establishes that it holds current CAMTS accreditation as provided in subsection (C), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-708, during the substantive review period for the renewal application.
- C.** To establish current CAMTS accreditation, an air ambulance service shall submit to the Department, as part of the application submitted under subsection (A), a copy of the air ambulance service's current CAMTS accreditation report.

- D. The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- E. The Department may deny an application if an applicant:
  1. Fails to meet the eligibility requirements of R9-25-703(C);
  2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
  3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
  4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
  5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### **R9-25-706. Term and Transferability of License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)**

- A. The Department shall issue an initial license:
  1. When based on current CAMTS accreditation, with a term beginning on the date of issuance and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and
  2. When based on Department inspection, with a term beginning on the date of issuance and ending three years later.
- B. The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
  1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
  2. When based on Department inspection, three years after the effective date.
- C. If an applicant submits an application for renewal as described in R9-25-705 before the expiration date of the current license, the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A person wanting to transfer an air ambulance service license shall submit to the Department before the anticipated change of ownership:
  1. A letter that contains:
    - a. A request that the air ambulance service license be transferred,
    - b. The name and license number of the currently licensed air ambulance service, and
    - c. The name of the person to whom the air ambulance service license is to be transferred; and
  2. An application that complies with R9-25-704(A) completed by the person to whom the license is to be transferred.
- E. A new owner shall not operate an air ambulance in this state until the Department has transferred an air ambulance service license to the new owner.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### **R9-25-707. Changes Affecting a License (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)**

- A. At least 30 days before the date of a change in an air ambulance service's name, the air ambulance service shall send the Department written notice of the name change.
- B. At least 90 days before an air ambulance service ceases to operate, the air ambulance service shall send the Department written notice of the intention to cease operating, effective on a specific date, and the desire to relinquish its license as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
  1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
  2. For a notice described in subsection (B), send the air ambulance service written confirmation of the voluntary relinquishment of its license, with an effective date consistent with the written notice.
- D. An air ambulance service shall notify the Department in writing within one working day after:
  1. A change in its eligibility for licensure under R9-25-703(B) or (C);
  2. A change in the business organization information most recently submitted to the Department under R9-25-704(A)(5) or R9-25-705(A);
  3. A change in its CAMTS accreditation status, including a copy of its new CAMTS accreditation report, if applicable;
  4. A change in its hours of operation or schedule of rates; or
  5. A change in the scope of the mission types provided.
- E. Before the date of an anticipated change of ownership, a person wanting to transfer an air ambulance service license shall submit to the Department the documents required under R9-25-706(D).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### **R9-25-708. Inspections and Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)**

- A. Except as provided in subsections (D) and (F), the Department shall inspect an air ambulance service before issuing an initial or renewal license, as required under A.R.S. § 36-2214(B), and as often as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the premises and each air ambulance operated or to be operated for the air ambulance service.
- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
  1. The Department may conduct an inspection as part of an investigation.
  2. An air ambulance service shall allow the Department to inspect the premises and each air ambulance and to interview personnel as part of an investigation.
- D. As required under A.R.S. § 36-2213(8), the Department shall accept proof of current CAMTS accreditation in lieu of the licensing inspections otherwise required before initial and renewal licensure under subsection (A) and A.R.S. § 36-2214(B).
- E. To establish current CAMTS accreditation, an applicant or air ambulance service shall submit to the Department a copy of its

## Department of Health Services – Emergency Medical Services

current CAMTS accreditation report as required under R9-25-704(C), R9-25-705(C), or R9-25-707(D).

- F. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
- G. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-709. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))**

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
  1. Fails to meet the eligibility requirements of R9-25-703(B) or (C);
  2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
  3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter; or
  4. Knowingly or negligently provides false documentation or false or misleading information to the Department.
- B. The Department may take the following actions against an air ambulance service:
  1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend the air ambulance service license;
  2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the air ambulance service license; and
  3. If the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summarily suspend the air ambulance service license pending proceedings for revocation or other action, as permitted under A.R.S. § 41-1092.11(B).
- C. In determining whether to take action under subsection (B), the Department shall consider:
  1. The severity of each violation relative to public health and safety;
  2. The number of violations relative to the transport volume of the air ambulance service;
  3. The nature and circumstances of each violation;
  4. Whether each violation was corrected and, if so, the manner of correction; and
  5. The duration of each violation.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-710. Minimum Standards for Operations (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**

- A. An air ambulance service shall ensure that:
  1. The air ambulance service maintains eligibility for licensure as required under R9-25-703(C);
  2. The air ambulance service publicizes its hours of operation;
  3. The air ambulance service makes its schedule of rates available to any individual upon request and, if requested, in writing;

4. The air ambulance service provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of arrival to the person requesting transport if the estimated time of arrival changes;
  5. The air ambulance service transports only patients for whom it has the resources to provide appropriate medical care, unless subsection (B) or (D) applies;
  6. The air ambulance service does not perform interfacility transport of a patient unless:
    - a. The transport is requested by:
      - i. A physician; or
      - ii. A qualified medical person, as determined by the sending health care institution's bylaws or policies, after consultation with and approval by a physician; and
    - b. The destination health care institution confirms that a bed is available for the patient;
  7. The air ambulance service creates a prehospital incident history report, as defined in A.R.S. § 36-2220, for each patient;
  8. The air ambulance service creates a record for each mission that includes:
    - a. Mission date;
    - b. Mission level—basic life support, advanced life support, or critical care;
    - c. Mission type—emergency medical services transport, interfacility transport, interfacility maternal transport, interfacility neonatal transport, or convalescent transport;
    - d. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
    - e. Name of the person requesting the transport;
    - f. Time of receipt of the transport request;
    - g. Departure time to the patient's location;
    - h. Address of the patient's location;
    - i. Arrival time at the patient's location;
    - j. Departure time to the destination health care institution;
    - k. Name and address of the destination health care institution;
    - l. Arrival time at the destination health care institution;
    - m. Patient reference number or call number; and
    - n. Aircraft tail number for the air ambulance used on the mission; and
  9. The air ambulance service submits to the Department by the 15th day of each month, either in an electronic format approved by the Department or in hard copy, a run log of the previous month's missions that includes the information required under subsections (A)(8)(a)-(d), (f), (g), (i), (j), (l), and (m) in a cumulative tabular format.
- B. In a rescue situation, when no other practical means of transport, including another air ambulance service, is available, an air ambulance service may deviate from subsection (A)(5) to the extent necessary to meet the rescue situation.
  - C. An air ambulance service that completes a mission under subsection (B) shall create a record within five working days after the mission, including the information required under subsection (A)(8), the manner in which the air ambulance service deviated from subsection (A)(5), and the justification for operating under subsection (B).
  - D. An air ambulance service may provide interfacility transport of a patient for whom it does not have the resources to provide appropriate medical care if the sending health care institution provides medically appropriate life support measures, staff,

and equipment to sustain the patient during the interfacility transport.

- E. An air ambulance service shall ensure that each staff member provided by a sending health care institution under subsection (D) has completed training in the subject areas listed in R9-25-713(A) before serving on a mission.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### R9-25-711. Minimum Standards for Mission Staffing (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. An air ambulance service shall ensure that, except as provided in subsection (B):
- Each critical care mission is staffed by a medical team of at least two individuals with at least the following qualifications:
    - A physician or registered nurse, and
    - An EMT-P or licensed respiratory care practitioner;
  - Each advanced life support mission is staffed by a medical team of at least two individuals with at least the following qualifications:
    - An EMT-P, and
    - Another EMT-P or a licensed respiratory care practitioner; and
  - Each basic life support mission is staffed by a medical team of at least two individuals, each of whom has at least the qualifications of an EMT-B.
- B. If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service's written guidelines required under subsection (C), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C), an air ambulance service may use a single-member medical team consisting of an individual with at least the following qualification:
- For a critical care mission, a physician or registered nurse;
  - For an advanced life support mission, an EMT-P; and
  - For a basic life support mission, an EMT-B.
- C. An air ambulance service shall ensure that:
- Each air ambulance service rotor-wing pilot is provided written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
  - The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission:
    - The pilot communicates that information to the medical team;
    - The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team; and
    - The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;

- A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;
- The air ambulance service has a quality management process to review regularly the patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution; and
- A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.

- D. An air ambulance service that uses a single-member medical team as authorized under subsection (B) shall create a record within five working days after the mission, including the information required under R9-25-710(A)(8), the name and qualifications of the individual comprising the single-member medical team, and the justification for using a single-member medical team.

- E. An air ambulance service shall create and maintain for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### R9-25-712. Expired

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

#### R9-25-713. Minimum Standards for Training (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. An air ambulance service shall ensure that each medical team member completes training in the following subjects before serving on a mission:
- Aviation terminology;
  - Physiological aspects of flight;
  - Patient loading and unloading;
  - Safety in and around the aircraft;
  - In-flight communications;
  - Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
  - In-flight emergency procedures;
  - Emergency landing procedures; and
  - Emergency evacuation procedures.
- B. An air ambulance service shall document each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### R9-25-714. Minimum Standards for Communications (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

An air ambulance service shall ensure that, while on a mission, two-way voice communication is available:

- Between and among personnel on the air ambulance, including the pilot; and
- Between personnel on the air ambulance and the following persons on the ground:



- a. Personnel;
- b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
- c. For a rotor-wing air ambulance mission:
  - i. Emergency medical services providers, and
  - ii. Law enforcement agencies.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-715. Minimum Standards for Medical Control (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**

- A.** An air ambulance service shall ensure that:
1. The air ambulance service has a medical director who:
    - a. Meets the qualifications in subsection (B);
    - b. Supervises and evaluates the quality of medical care provided by medical team members;
    - c. Ensures the competency and current qualifications of all medical team members;
    - d. Ensures that each EMT medical team member receives medical direction as required under Article 2 of this Chapter;
    - e. Ensures that each non-EMT medical team member receives medical guidance through:
      - i. Written treatment protocols; and
      - ii. On-line medical guidance provided by:
        - (1) The medical director;
        - (2) Another physician designated by the medical director; or
        - (3) If the medical guidance needed exceeds the medical director's area of expertise, a consulting specialty physician; and
    - f. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
  2. The air ambulance service has a quality management program through which:
    - a. Data related to patient care and transport services provided and patient status upon arrival at destination are:
      - i. Collected continuously, and
      - ii. Examined regularly, on at least a quarterly basis; and
    - b. Appropriate corrective action is taken when concerns are identified; and
  3. The air ambulance service documents each concern identified through the quality management program and the corrective action taken to resolve each concern and provides this information, along with the supporting data, to the Department upon request.
- B.** A medical director shall:
1. Be a physician, as defined in A.R.S. § 36-2201; and
  2. Comply with one of the following:
    - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-204(A)(2); or
    - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-204(A)(2) or one of the following:
      - i. If the air ambulance service provides only interfacility maternal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:

- (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
- (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;

- ii. If the air ambulance service provides only interfacility neonatal missions, have board certification or have completed an accredited residency program in one of the following specialty areas:

- (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or
- (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or

- iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:

- (1) Anesthesiology, with subspecialization in critical care medicine;
- (2) Internal medicine, with subspecialization in critical care medicine;
- (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
- (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-716. Minimum Standards for Recordkeeping (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)**

An air ambulance service shall retain each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document and shall produce each document for Department review upon request.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-717. Minimum Standards for an Interfacility Neonatal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**

An air ambulance service shall ensure that:

1. Each interfacility neonatal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
  - a. Proficiency in pediatric emergency care, as defined in R9-25-101; and
  - b. Proficiency in neonatal resuscitation and stabilization of the neonatal patient;
2. Each interfacility neonatal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
  - a. A transport incubator with:
    - i. Battery and inverter capabilities,
    - ii. An infant safety restraint system, and

- iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
  - b. An invasive automatic blood pressure monitor;
  - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
  - d. Neonatal-specific drug concentrations and doses;
  - e. Umbilical catheter insertion equipment and supplies;
  - f. Thoracostomy supplies;
  - g. Neonatal resuscitation equipment and supplies;
  - h. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
  - i. A neonatal probe for use with a pulse oximeter;
3. On-line medical direction or on-line medical guidance provided to an interfacility neonatal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(ii); and
  4. An individual does not serve on an interfacility neonatal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (1)(a) and (b).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### **R9-25-718. Minimum Standards for an Interfacility Maternal Mission (A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)**

- A. This Section applies to an air ambulance service that holds itself out as providing interfacility maternal missions.
- B. An air ambulance service shall ensure that:
  1. Each interfacility maternal mission is staffed by a medical team that complies with the requirements for a critical care mission medical team in R9-25-711(A)(1) and that has the following additional qualifications:
    - a. Proficiency in advanced emergency cardiac life support, as defined in R9-25-101;
    - b. Proficiency in neonatal resuscitation; and
    - c. Proficiency in stabilization and transport of the maternal patient;
  2. Each interfacility maternal mission is conducted using an air ambulance that has the equipment and supplies required for a critical care mission in Table 1 of Article 8 of this Chapter and the following:
    - a. A Doppler fetal heart monitor;
    - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in subsection (B)(3), an external fetal heart and tocographic monitor with printer capability;
    - c. Tocolytic and anti-hypertensive medications;
    - d. Advanced emergency cardiac life support equipment and supplies; and
    - e. Neonatal resuscitation equipment and supplies;
  3. On-line medical direction or on-line medical guidance provided to an interfacility maternal mission medical team member is provided by a physician who meets the qualifications of R9-25-715(B)(2)(b)(i); and
  4. An individual does not serve on an interfacility maternal mission medical team unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in subsections (B)(1)(a), (b), and (c).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 656,

effective April 8, 2006 (Supp. 06-1).

#### **ARTICLE 8. AIR AMBULANCE REGISTRATION**

*Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).*

*Editor's Note: Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).*

*Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).*

#### **R9-25-801. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2212)**

In addition to the definitions in R9-25-701, the following definitions apply in this Article, unless otherwise specified:

1. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.

#### Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

#### **R9-25-802. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4))**

- A. A person shall not operate an air ambulance in this state unless the person has a current and valid air ambulance service license as required under Article 7 of this Chapter and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for the air ambulance as required under this Article.
- B. To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:
  1. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
  2. Hold the following issued by the Federal Aviation Administration for the air ambulance:
    - a. A current and valid Certificate of Registration; and
    - b. A current and valid Airworthiness Certificate;
  3. Hold a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
  4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.

- C.** To obtain an initial or renewal certificate of registration for an air ambulance, an applicant shall submit to the Department an application completed using a Department-provided form and including:
1. The applicant's name, mailing address, fax number, and telephone number;
  2. All other business names used by the applicant;
  3. The applicant's physical business address, if different from the mailing address;
  4. The following information about the air ambulance for which registration is sought:
    - a. Each mission level for which the air ambulance will be used:
      - i. Basic life support,
      - ii. Advanced life support, or
      - iii. Critical care;
    - b. Whether a fixed-wing or rotor-wing aircraft;
    - c. Number of engines;
    - d. Manufacturer name;
    - e. Model name;
    - f. Year manufactured;
    - g. Serial number;
    - h. Aircraft tail number;
    - i. Aircraft colors, including fuselage, stripe, and lettering; and
    - j. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
  5. A copy of the following issued to the applicant, for the air ambulance, by the Federal Aviation Administration:
    - a. A current and valid Certificate of Registration, and
    - b. A current and valid Airworthiness Certificate;
  6. A copy of a current and valid registration issued to the applicant, for the air ambulance, by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
  7. The location in Arizona at which the air ambulance will be available for inspection;
  8. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
  9. Attestation that the applicant knows all applicable requirements in A.R.S. Title 36, Chapter 21.1; this Article; and Articles 2 and 7 of this Chapter;
  10. Attestation that the information provided in the application, including the information in the documents accompanying the application form, is accurate and complete;
  11. The dated signature of:
    - a. If the applicant is an individual, the individual;
    - b. If the applicant is a corporation, an officer of the corporation;
    - c. If the applicant is a partnership, one of the partners;
    - d. If the applicant is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
    - e. If the applicant is an association or cooperative, a member of the governing board of the association or cooperative;
    - f. If the applicant is a joint venture, one of the individuals signing the joint venture agreement;
    - g. If the applicant is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
  - h. If the applicant is a business organization type other than those described in subsections (C)(11)(b) through (f), an individual who is a member of the business organization; and
12. Unless the applicant operates or intends to operate the air ambulance only as a volunteer not-for-profit service, a certified check, business check, or money order made payable to the Arizona Department of Health Services for the following fees:
- a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
  - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- D.** The Department requires submission of a separate application and fees for each air ambulance.
- E.** Except as provided under R9-25-805(C), the Department shall inspect each air ambulance to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article before issuing an initial certificate of registration and at least every 12 months thereafter before issuing a renewal certificate of registration.
- F.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- G.** The Department may deny a certificate of registration for an air ambulance if the applicant:
1. Fails to meet the eligibility requirements of R9-25-802(B);
  2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
  3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
  4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
  5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3), as required under R9-25-1201(D), and requests a denial as permitted under R9-25-1201(E).

**Historical Note**

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**Exhibit 1. Repealed****Historical Note**

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

**Exhibit 2. Repealed****Historical Note**

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

**Exhibit 3. Repealed****Historical Note**

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

**Exhibit 4. Repealed****Historical Note**

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

**R9-25-803. Term and Transferability of Certificate of Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)**

- A. The Department shall issue an initial certificate of registration:
  1. With a term of one year from date of issuance; or
  2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's air ambulances at one time.
- B. The Department shall issue a renewal certificate of registration with a term of one year.
- C. If an applicant submits an application for renewal as described in R9-25-802 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A certificate of registration is not transferable from one person to another.
- E. If there is a change in the ownership of an air ambulance, the new owner shall apply for and obtain a new certificate of registration before operating the air ambulance in this state.

**Historical Note**

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**Exhibit 1. Recodified****Historical Note**

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" recodified from A.A.C. R9-13-1503, Exhibit 1 "EMT-P Drug List" and "EMT-I Drug List" (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions

of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 1703, effective May 15, 2003 (Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**Exhibit 2. Recodified****Historical Note**

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**R9-25-804. Changes Affecting Registration (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)**

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. No later than 10 days after a certificate holder ceases to operate an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to operate the air ambulance and of the desire to relinquish the certificate of registration for the air ambulance as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
  1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
  2. For a notice described in subsection (B), send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.
- D. A certificate holder shall notify the Department in writing within one working day after a change in its eligibility to obtain a certificate of registration for an air ambulance under R9-25-802(B).

**Historical Note**

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-805. Inspections (A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))**

- A. An applicant or certificate holder shall make an air ambulance available for inspection within Arizona at the request of the Department.
- B. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C. As permitted under A.R.S. § 36-2232(A)(11), upon certificate holder request and at certificate holder expense, the annual inspection of an air ambulance required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility.

**Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**Exhibit 1. Recodified****Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**Exhibit 2. Recodified****Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**Exhibit 3. Repealed****Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

**R9-25-806. Enforcement Actions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2212, 36-2234(L), 41-1092.03, and 41-1092.11(B))**

- A. The Department may take an action listed in subsection (B) against a certificate holder's certificate of registration if the certificate holder:
  - 1. Fails or has failed to meet the eligibility requirements of R9-25-802(B);
  - 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
  - 3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter; or

- 4. Knowingly or negligently provides false documentation or false or misleading information to the Department.

- B. The Department may take the following actions against a certificate holder's certificate of registration:
  - 1. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke the certificate of registration; and
  - 2. In case of emergency, if the Department determines that a potential threat to the public health and safety exists and incorporates a finding to that effect in its order, immediately suspend the certificate of registration as authorized under A.R.S. § 36-2234(L).
- C. In determining whether to take action under subsection (B), the Department shall consider:
  - 1. The severity of each violation relative to public health and safety;
  - 2. The number of violations relative to the transport volume of the air ambulance service;
  - 3. The nature and circumstances of each violation;
  - 4. Whether each violation was corrected and, if so, the manner of correction; and
  - 5. The duration of each violation.

**Historical Note**

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-807. Minimum Standards for an Air Ambulance (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)**

- A. An applicant or certificate holder shall ensure that an air ambulance has:
  - 1. A climate control system to prevent temperature extremes that would adversely affect patient care;
  - 2. If a fixed-wing air ambulance, pressurization capability;
  - 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
  - 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
  - 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;
  - 6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;
  - 7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
  - 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
  - 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any inten-

- tional or accidental interference from a patient or equipment and supplies;
10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
  11. An installed self-activating emergency locator transmitter;
  12. A voice communications system that:
    - a. Is capable of air-to-ground communication, and
    - b. Allows the flight crew and medical team members to communicate with each other during flight;
  13. Interior patient compartment wall and floor coverings that are:
    - a. Free of cuts or tears,
    - b. Capable of being disinfected, and
    - c. Maintained in a sanitary manner; and
  14. If a rotor-wing air ambulance, the following:
    - a. A searchlight that:
      - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
      - ii. Is capable of illuminating a landing site, and
      - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
    - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
    - c. A light to illuminate the tail rotor.
- B.** An applicant or certificate holder shall ensure that:
1. Except as provided in subsection (C), each air ambulance has the equipment and supplies required in Table 1 for each mission level for which the air ambulance is used; and
  2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.
- C.** A certificate holder may conduct an interfacility critical care mission using an air ambulance that does not have all of the equipment and supplies required in Table 1 for the mission level if:
1. Care of the patient to be transported necessitates use of life-support equipment that because of its size or weight or both makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in Table 1 for the mission level, as determined by the certificate holder based upon:
    - a. The individual aircraft's capabilities,
    - b. The size and weight of the equipment and supplies required in Table 1 and of the additional life-support equipment,
    - c. The composition of the required medical team, and
    - d. Environmental factors such as density altitude;
  2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for the patient and to protect the health and safety of the personnel on the mission;
  3. The certificate holder ensures that, during the mission, the air ambulance is not directed by the air ambulance service or another person to conduct another mission before returning to a base location;
  4. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in Table 1 for the mission level; and
  5. Within five working days after each interfacility critical care mission conducted as permitted under subsection (C), the certificate holder creates a record that includes the information required under R9-25-710(A)(8), a description of the life-support equipment used on the mission, a list of the equipment and supplies required in Table 1 that were removed from the air ambulance for the mission, and the justification for conducting the mission as permitted under subsection (C).

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**Table 1. Minimum Equipment and Supplies Required on Air Ambulances, By Mission Level and Aircraft Type (A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)**

X = Required

ALS = Advanced Life Support Mission

BLS = Basic Life Support Mission

CC = Critical Care Mission

FW = Fixed-Wing Aircraft

RW = Rotor-Wing Aircraft

MINIMUM EQUIPMENT AND SUPPLIES	FW	RW	BLS	ALS	CC
<b>A. Ventilation and Airway Equipment</b>					
1. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F	X	X	X	X	X
2. Portable and fixed oxygen equipment, with variable flow regulators	X	X	X	X	X
3. Oxygen administration equipment, including tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes)	X	X	X	X	X
4. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve	X	X	X	X	X

## Department of Health Services – Emergency Medical Services

5. Airways, oropharyngeal (adult, pediatric, and infant sizes)	X	X	X	X	X
6. Laryngoscope handle with extra batteries and bulbs, adult and pediatric	X	X	-	X	X
7. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved	X	X	-	X	X
8. Endotracheal tubes, sizes 2.5-5.0 mm uncuffed and 6.0-8.0 mm cuffed	X	X	-	X	X
9. Meconium aspirator	X	X	-	X	X
10. 10 mL straight-tip syringes	X	X	-	X	X
11. Stylettes for Endotracheal tubes, adult and pediatric	X	X	-	X	X
12. Magill forceps, adult and pediatric	X	X	-	X	X
13. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F	X	X	-	X	X
14. End-tidal CO <sub>2</sub> detectors, colorimetric or quantitative	X	X	-	X	X
15. Portable automatic ventilator with positive end expiratory pressure	X	X	-	X	X
<b>B. Monitoring and Defibrillation</b>					
1. Automatic external defibrillator	X	X	X	-	-
2. Portable, battery-operated monitor/defibrillator, with tape write-out/recorder, defibrillator pads, adult and pediatric paddles or hands-free patches, ECG leads, adult and pediatric chest attachment electrodes, and capability to provide electrical discharge below 25 watt-seconds	X	X	-	X	X
3. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator	X	X	-	X	X
<b>C. Immobilization Devices</b>					
1. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes	-	X	X	X	X
2. Head immobilization device, either firm padding or another commercial device	-	X	X	X	X
3. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap	-	X	X	X	X
4. Upper and lower extremity immobilization splints	-	X	X	X	X
<b>D. Bandages</b>					
1. Burn pack, including standard package, clean burn sheets	X	X	X	X	X
2. Dressings, including sterile multi-trauma dressings (various large and small sizes); abdominal pads, 10" x 12" or larger; and 4" x 4" gauze sponges	X	X	X	X	X
3. Gauze rolls, sterile (4" or larger)	X	X	X	X	X
4. Elastic bandages, non-sterile (4" or larger)	X	X	X	X	X
5. Occlusive dressing, sterile, 3" x 8" or larger	X	X	X	X	X
6. Adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive	X	X	X	X	X
<b>E. Obstetrical</b>					
1. Obstetrical kit (separate sterile kit), including towels, 4" x 4" dressing, umbilical tape, sterile scissors or other cutting utensil, bulb suction, clamps for cord, sterile gloves, at least 4 blankets, and a head cover	X	X	X	X	X
2. An alternate portable patient heat source or 2 heat packs	X	X	X	X	X

<b>F. Miscellaneous</b>					
1. Sphygmomanometer (infant, pediatric, and adult regular and large sizes)	X	X	X	X	X
2. Stethoscope	X	X	X	X	X
3. Pediatric equipment sizing reference guide	X	X	X	X	X
4. Thermometer with low temperature capability	X	X	X	X	X
5. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots	X	X	X	X	X
6. Cold packs	X	X	X	X	X
7. Flashlight (1) with extra batteries	X	X	X	X	X
8. Blankets	X	X	X	X	X
9. Sheets	X	X	X	X	X
10. Disposable emesis bags or basins	X	X	X	X	X
11. Disposable bedpan	X	X	X	X	X
12. Disposable urinal	X	X	X	X	X
13. Properly secured patient transport system	X	X	X	X	X
14. Lubricating jelly (water soluble)	X	X	X	X	X
15. Small volume nebulizer	X	X	-	X	X
16. Glucometer or blood glucose measuring device with reagent strips	X	X	-	X	X
17. Pulse oximeter with pediatric and adult probes	X	X	-	X	X
18. Automatic blood pressure monitor	X	X	X	X	X
<b>G. Infection Control (Latex-free equipment shall be available)</b>					
1. Eye protection (full peripheral glasses or goggles, face shield)	X	X	X	X	X
2. Masks	X	X	X	X	X
3. Gloves, non-sterile	X	X	X	X	X
4. Jumpsuits or gowns	X	X	X	X	X
5. Shoe covers	X	X	X	X	X
6. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid)	X	X	X	X	X
7. Disinfectant solution for cleaning equipment	X	X	X	X	X
8. Standard sharps containers	X	X	X	X	X
9. Disposable red trash bags	X	X	X	X	X
10. High-efficiency particulate air mask	X	X	X	X	X
<b>H. Injury Prevention Equipment</b>					
1. Appropriate restraints (such as seat belts) for patient, personnel, and family members	X	X	X	X	X
2. Child safety restraints	X	X	X	X	X
3. Safety vest or other garment with reflective material for each personnel member	-	X	X	X	X
4. Fire extinguisher	X	X	X	X	X
5. Hazardous material reference guide	X	X	X	X	X



## Department of Health Services – Emergency Medical Services

6. Hearing protection for patient and personnel	X	X	X	X	X
<b>I. Vascular Access</b>					
1. Intravenous administration equipment, with fluid in bags	X	X	-	X	X
2. Antiseptic solution (alcohol wipes and povidone-iodine wipes)	X	X	-	X	X
3. Intravenous pole or roof hook	X	X	-	X	X
4. Intravenous catheters 14G-24G	X	X	-	X	X
5. Intraosseous needles	X	X	-	X	X
6. Venous tourniquet	X	X	-	X	X
7. One of each of the following types of intravenous solution administration sets: a. A set with blood tubing, b. A set capable of delivering 60 drops per cc, and c. A set capable of delivering 10 or 15 drops per cc	X	X	-	X	X
8. Intravenous arm boards, adult and pediatric	X	X	-	X	X
9. IV pump or pumps (minimum of 3 infusion lines)	X	X	-	X	X
10. IV pressure bag	X	X	-	X	X
<b>J. Medications</b>					
1. Drugs and drug-related equipment required in the EMT-B Drug List in Exhibit 1 to R9-25-503	X	X	X	-	-
2. Drugs and drug-related equipment required in the EMT-P and Qualified EMT-I Drug List in Exhibit 1 to R9-25-503	X	X	-	X	X

**Historical Note**

New Table made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**R9-25-808. Recodified****Historical Note**

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

**ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY****R9-25-901. Definitions (A.R.S. § 36-2202(A))**

In addition to the definitions in R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. "Adjustment" means a modification, correction, or alteration to a rate or charge.
2. "ALS" has the same meaning as in R9-25-101(8).
3. "ALS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(F).
4. "Ambulance attendant" has the same meaning as in A.R.S. § 36-2201(4).
5. "Ambulance Revenue and Cost Report" means Exhibit A or Exhibit B, which records and reports the financial activities of an applicant or a certificate holder.
6. "Applicant" means:
  - a. An individual, if a sole proprietorship;
  - b. The corporation's officers, if a corporation;
  - c. The managing partner, if a partnership or limited liability partnership;
  - d. The designated manager, or if no manager is designated, the members of the limited liability company, if a limited liability company;

- e. The designated representative of a public corporation that has controlling legal or equitable interest and authority in a ground ambulance service;
  - f. The designated representative of a political subdivision that has controlling legal or equitable interest and authority in a ground ambulance service; or
  - g. The designated representative of a government agency that has controlling legal or equitable interest and authority in a ground ambulance service.
7. "Application packet" means the fee, documents, forms, and additional information the Department requires to be submitted by an applicant or on an applicant's behalf.
  8. "Back-up agreement" means a written arrangement between a certificate holder and a neighboring certificate holder for temporary coverage during limited times when the neighboring certificate holder's ambulances are not available for service in its service area.
  9. "BLS" has the same meaning as in R9-25-101(13).
  10. "BLS base rate" means the monetary amount assessed to a patient according to A.R.S. § 36-2239(G).
  11. "Certificate holder" means a person to whom the Department issues a certificate of necessity.
  12. "Certificate of necessity" has the same meaning as in A.R.S. § 36-2201(8).
  13. "Certificate of registration" means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
  14. "Change of ownership" means:
    - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;

- b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
  - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered.
- 15. “Charge” means the monetary amount assessed to a patient for disposable supplies, medical supplies, medication, and oxygen-related costs.
  - 16. “Chassis” means the part of a ground ambulance vehicle consisting of all base components, including the frame, front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
  - 17. “Convalescent transport” means a scheduled transport other than an interfacility transport.
  - 18. “Day” means calendar day.
  - 19. “Dispatch” means the direction to a ground ambulance service or vehicle to respond to a call for EMS or transport.
  - 20. “Driver’s compartment” means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
  - 21. “Emergency medical services” or “EMS” has the same meaning as in A.R.S. § 36-2201(14).
  - 22. “EMT” has the same meaning as in R9-25-101(31).
  - 23. “Financial statements” means an applicant’s balance sheet, annual income statement, and annual cash flow statement.
  - 24. “Fit and proper” has the same meaning as in A.R.S. § 36-2201(19).
  - 25. “Frame” means the structural foundation on which a ground ambulance vehicle chassis is constructed.
  - 26. “General public rate” means the monetary amount assessed to a patient by a ground ambulance service for ALS, BLS, mileage, standby waiting, or according to a subscription service contract.
  - 27. “Generally accepted accounting principles” means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
  - 28. “Goodwill” means the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service’s identifiable net assets.
  - 29. “Gross revenue” means:
    - a. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit A, page 2, lines 1, 9, and 20; or
    - b. The sum of revenues reported in the Ambulance Revenue and Cost Report Exhibit B, page 3, lines 1, 24, 25, and 26.
  - 30. “Ground ambulance service” means an ambulance service that operates on land.
  - 31. “Ground ambulance service contract” means a written agreement between a certificate holder and a person for the provision of ground ambulance service.
  - 32. “Ground ambulance vehicle” means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to transport ambulance attendants and patients on land.
  - 33. “Health care institution” has the same meaning as in A.R.S. § 36-401(A)(21).
  - 34. “Indirect costs” means the cost of providing ground ambulance service that does not include the costs of equipment.
  - 35. “Interfacility transport” means a scheduled transport between two health care institutions.
  - 36. “Level of service” means ALS or BLS ground ambulance service, including the type of ambulance attendants used by the ground ambulance service.
  - 37. “Major defect” means a condition that exists on a ground ambulance vehicle that requires the Department or the certificate holder to place the ground ambulance vehicle out-of-service.
  - 38. “Mileage rate” means the monetary amount assessed to a patient for each mile traveled from the point of patient pick-up to the patient’s destination point.
  - 39. “Minor defect” means a condition that exists on a ground ambulance vehicle that is not a major defect.
  - 40. “Needs assessment” means a study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that takes into account the current or proposed service area’s medical, fire, and police services.
  - 41. “Out-of-service” means a ground ambulance vehicle cannot be operated to transport patients.
  - 42. “Patient” means an individual who is sick, injured, or wounded or who requires medical monitoring, medical treatment, or transport.
  - 43. “Patient compartment” means the ground ambulance vehicle body part that holds a patient.
  - 44. “Person” has the same meaning as in A.R.S. § 1-215(28) and includes a political subdivision or governmental agency.
  - 45. “Public necessity” means an identified population needs or requires all or part of the services of a ground ambulance service.
  - 46. “Response code” means the priority assigned to a request for immediate dispatch by a ground ambulance service on the basis of the information available to the certificate holder or the certificate holder’s dispatch authority.
  - 47. “Response time” means the difference between the time a certificate holder is notified that a need exists for immediate dispatch and the time the certificate holder’s first ground ambulance vehicle arrives at the scene. Response time does not include the time required to identify the patient’s need, the scene, and the resources necessary to meet the patient’s need.
  - 48. “Response-time tolerance” means the percentage of actual response times for a response code and scene locality that are compliant with the response time approved by the Department for the response code and scene locality, for any 12-month period.
  - 49. “Rural area” means a geographic region with a population of less than 40,000 residents that is not a suburban area.
  - 50. “Scene” means the location of the patient or the closest point to the patient at which the ground ambulance vehicle can arrive.
  - 51. “Scene locality” means an urban, suburban, rural, or wilderness area.
  - 52. “Scheduled transport” means to convey a patient at a pre-arranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
  - 53. “Service area” means the geographical boundary designated in a certificate of necessity using the criteria in A.R.S. § 36-2233(E).

54. "Settlement" means the difference between the monetary amount Medicare establishes or AHCCCS pays as an allowable rate and the general public rate a ground ambulance service assesses a patient.
  55. "Standby waiting rate" means the monetary amount assessed to a patient by a certificate holder when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.
  56. "Suboperation station" has the same meaning as in A.R.S. § 36-2201(25).
  57. "Subscription service" means the provision of EMS or transport by a certificate holder to a group of individuals within the certificate holder's service area and the allocation of annual costs among the group of individuals.
  58. "Subscription service contract" means a written agreement for subscription service.
  59. "Subscription service rate" means the monetary amount assessed to a person under a subscription service contract.
  60. "Substandard performance" means a certificate holder's:
    - a. Noncompliance with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, or the terms of the certificate holder's certificate of necessity, including all decisions and orders issued by the Director to the certificate holder;
    - b. Failure to ensure that an ambulance attendant complies with A.R.S. Title 36, Chapter 21.1, Articles 1 and 2, or 9 A.A.C. 25, for the level of ground ambulance service provided by the certificate holder; or
    - c. Failure to meet the requirements in 9 A.A.C. 25, Article 10.
  61. "Suburban area" means a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile.
  62. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment of a patient's assessed general public rates and charges for EMS or transport provided to the patient by a ground ambulance service.
  63. "Transfer" means:
    - a. A change of ownership or type of business entity; or
    - b. To move a patient from a ground ambulance vehicle to an air ambulance.
  64. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to the patient's initial destination.
  65. "Type of ground ambulance service" means an interfacility transport, a convalescent transport, or a transport that requires an immediate response.
  66. "Urban area" means a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census.
  67. "Wilderness area" means a geographic region that has a population density of less than one resident per square mile.
1. An application form that contains:
    - a. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
    - b. The name, title, address, and telephone number of the following:
      - i. Each applicant and individual responsible for managing the ground ambulance service;
      - ii. The business representative or designated manager;
      - iii. The individual to contact to access the ground ambulance service's records required in R9-25-910; and
      - iv. The statutory agent for the ground ambulance service, if applicable;
    - c. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
    - d. The address and telephone number of the ground ambulance service's dispatch center;
    - e. The address and telephone number of each suboperation station located within the proposed service area;
    - f. Whether the ground ambulance service is a corporation, partnership, sole proprietorship, limited liability corporation, or other;
    - g. Whether the business entity is proprietary, non-profit, or governmental;
    - h. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
    - i. The make and year of each ground ambulance vehicle to be used by the ground ambulance service;
    - j. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
    - k. The proposed hours of operation for the ground ambulance service;
    - l. The type of ground ambulance service;
    - m. The level of ground ambulance service;
    - n. Acknowledgment that the applicant:
      - i. Is requesting to operate ground ambulance vehicles and a ground ambulance service in this state;
      - ii. Has received a copy of 9 A.A.C. 25 and A.R.S. Title 36, Chapter 21.1; and
      - iii. Will comply with the Department's statutes and rules in any matter relating to or affecting the ground ambulance service;
    - o. A statement that any information or documents submitted to the Department are true and correct; and
    - p. The signature of the applicant or the applicant's designated representative;
  2. The following information:
    - a. Where the ground ambulance vehicles in subsection (A)(1)(i) are located within the applicant's proposed service area;
    - b. A statement of the proposed general public rates;
    - c. A statement of the proposed charges;
    - d. The applicant's proposed response times, response codes, and response-time tolerances for each scene locality in the proposed service area, based on the following:
      - i. The population demographics within the proposed service area;

#### Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

#### **R9-25-902. Application for an Initial Certificate of Necessity; Provision of ALS Services; Transfer of a Certificate of Necessity (A.R.S. §§ 36-2204, 36-2232, 36-2233(B), 36-2236(A) and (B), 36-2240)**

- A.** An applicant for an initial certificate of necessity shall submit to the Department an application packet that includes:

- ii. The square miles within the proposed service area;
    - iii. The medical needs of the population within the proposed service area;
    - iv. The number of anticipated requests for each type and level of ground ambulance service in the proposed service area;
    - v. The available routes of travel within the proposed service area;
    - vi. The geographic features and environmental conditions within the proposed service area; and
    - vii. The available medical and emergency medical resources within the proposed service area;
  - e. A plan to provide temporary ground ambulance service to the proposed service area for a limited time when the applicant is unable to provide ground ambulance service to the proposed service area;
  - f. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where; and
  - g. Whether an applicant or a designated manager:
    - i. Has ever been convicted of a felony or a misdemeanor involving moral turpitude;
    - ii. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision; or
    - iii. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
  - 3. The following documents:
    - a. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and a map that illustrates the proposed service area;
    - b. A projected Ambulance Revenue and Cost Report;
    - c. The financing agreement for all capital acquisitions exceeding \$5,000;
    - d. The source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses;
    - e. Any proposed ground ambulance service contract under A.R.S. §§ 36-2232(A)(1) and 36-2234(K);
    - f. The information and documents specified in R9-25-1101, if the applicant is requesting to establish general public rates;
    - g. Any subscription service contract under A.R.S. §§ 36-2232(A)(1) and 36-2237(B);
    - h. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-909;
    - i. A surety bond if required under A.R.S. § 36-2237(B); and
    - j. The applicant's and designated manager's resume or other description of experience and qualification to operate a ground ambulance service; and
  - 4. Any documents, exhibits, or statements that may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B.** Before an applicant provides ALS, the applicant shall submit to the Department the application packet required in subsection (A) and the following:
- 1. A current written contract for ALS medical direction; and
  - 2. Proof of professional liability insurance for ALS personnel required in R9-25-909(A)(1)(b).
- C.** When requesting a transfer of a certificate of necessity:
- 1. The person wanting to transfer the certificate of necessity shall submit a letter to the Department that contains:
    - a. A request that the certificate of necessity be transferred; and
    - b. The name of the person to whom the certificate of necessity is to be transferred; and
  - 2. The person identified in subsection (C)(1)(b) shall submit:
    - a. The application packet in subsection (A); and
    - b. The information in subsection (B), if ALS is provided.
- D.** An applicant shall submit the following fees:
- 1. \$100 application filing fee for an initial certificate of necessity; or
  - 2. \$50 application filing fee for a transfer of a certificate of necessity.
- E.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-903. Determining Public Necessity (A.R.S. § 36-2233(B)(2))**

- A.** In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following:
- 1. The response times, response codes, and response-time tolerances proposed by the applicant for the service area;
  - 2. The population demographics within the proposed service area;
  - 3. The geographic distribution of health care institutions within and surrounding the service area;
  - 4. Whether issuing a certificate of necessity to more than one ambulance service within the same service area is in the public's best interest, based on:
    - a. The existence of ground ambulance service to all or part of the service area;
    - b. The response times of and response-time tolerances for ground ambulance service to all or part of the service area;
    - c. The availability of certificate holders in all or part of the service area; and
    - d. The availability of emergency medical services in all or part of the service area;
  - 5. The information in R9-25-902(A)(1) and (A)(2); and
  - 6. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- B.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or interfacility transport for the same service area or overlapping service areas, the Director shall consider the following:
- 1. The factors in subsections (A)(2), (A)(3), (A)(4)(a), (A)(4)(c), (A)(4)(d), (A)(5), and (A)(6);
  - 2. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
  - 3. The need for additional convalescent or interfacility transport; and
  - 4. Whether a certificate holder for the service area has demonstrated substandard performance.
- C.** In deciding whether to issue a certificate of necessity to more than one ground ambulance service for a 9-1-1 or similarly

## Department of Health Services – Emergency Medical Services

dispatched transport within the same service area or overlapping service areas, the Director shall consider the following:

1. The factors in subsections (A), (B)(2), and (B)(4);
2. The difference between the response times in the service area and proposed response times by the applicant;
3. A needs assessment adopted by a political subdivision, if any; and
4. A needs assessment, referenced in A.R.S. § 36-2210, adopted by a local emergency medical services coordinating system, if any.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-904. Application for Renewal of a Certificate of Necessity (A.R.S. §§ 36-2233, 36-2235, 36-2240)**

- A.** An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 60 days before the expiration date of the certificate of necessity, an application packet that includes:
1. An application form that contains the information in R9-25-902(A)(1)(a) through (A)(1)(m) and the signature of the applicant;
  2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-909;
  3. Proof of continued coverage by a surety bond if required under A.R.S. §§ 36-2237(B);
  4. A copy of the list of current charges required in R9-25-1109;
  5. An affirmation that the certificate holder has and is continuing to meet the conditions of the certificate of necessity, including assessing only those rates and charges approved and set by the Director; and
  6. \$50 application filing fee.
- B.** A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. § 36-2235 and this Section, shall cease operations at 12:01 a.m. on the date the certificate of necessity expires.
- C.** To commence operations after failing to file a timely renewal application, a person shall file an initial certificate of necessity application according to R9-25-902 and meet all the requirements for an initial certificate of necessity.
- D.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-905. Application for Amendment of a Certificate of Necessity (A.R.S. §§ 36-2232(A)(4), 36-2240)**

- A.** A certificate holder that wants to amend its certificate of necessity shall submit to the Department the application form in R9-25-902(A)(1) and an application filing fee of \$50 for changes in:
1. The legal name of the ground ambulance service;
  2. The legal address of the ground ambulance service;
  3. The level of ground ambulance service;
  4. The type of ground ambulance service;
  5. The service area; or
  6. The response times, response codes, or response-time tolerances.
- B.** In addition to the application form in subsection (A), an amending certificate holder shall submit:

1. For the addition of ALS ground ambulance service, the information required in R9-25-902(B)(1) and (B)(2).
  2. For a change in the service area, the information required in R9-25-902(A)(3)(a);
  3. For a change in response times, the information required in subsection R9-25-902(A)(2)(d);
  4. A statement explaining the financial impact and impact on patient care anticipated by the proposed amendment;
  5. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents; and
  6. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-906. Determining Response Times, Response Codes, and Response-Time Tolerances for Certificates of Necessity and Provision of ALS Services (A.R.S. §§ 36-2232, 36-2233)**

In determining response times, response codes, and response-time tolerances for all or part of a service area, the Director may consider the following:

1. Differences in scene locality, if applicable;
2. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
3. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision;
4. Medical prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority; and
5. Other matters determined by the Director to be relevant to the measurement of response times, response codes, and response-time tolerances.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-907. Observance of Service Area; Exceptions (A.R.S. § 36-2232)**

A certificate holder shall not provide EMS or transport within an area other than the service area identified in the certificate holder's certificate of necessity except:

1. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene; or
2. According to a back-up agreement.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-908. Transport Requirements; Exceptions (A.R.S. §§ 36-2224, 36-2232)**

A certificate holder shall transport a patient except:

1. As limited by A.R.S. § 36-2224;
2. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
3. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambu-

- lance attendant, certificate holder, or medical direction authority;
- 4. If the patient is more than 17 years old and refuses to be transported; or
- 5. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-909. Certificate of Insurance or Self-Insurance (A.R.S. §§ 36-2232, 36-2233, 36-2237)**

- A.** A certificate holder shall:
  - 1. Maintain with an insurance company authorized to transact business in this state:
    - a. A minimum single occurrence automobile liability insurance coverage of \$500,000 for ground ambulance vehicles; and
    - b. A minimum single occurrence malpractice or professional liability insurance coverage of \$500,000; or
  - 2. Be self-insured for the amounts in subsection (A)(1).
- B.** A certificate holder shall submit to the Department:
  - 1. A copy of the certificate of insurance; or
  - 2. Documentation of self-insurance.
- C.** A certificate holder shall submit a copy of the certificate of insurance to the Department no later than five days after the date of issuance of:
  - 1. A renewal of the insurance policy; or
  - 2. A change in insurance coverage or insurance company.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-910. Record and Reporting Requirements (A.R.S. §§ 36-2232, 36-2241, 36-2246)**

- A.** A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the appropriate Ambulance Revenue and Cost Report.
- B.** According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:
  - 1. The certificate holder's financial statements;
  - 2. All federal and state income tax records;
  - 3. All employee-related expense reports and payroll records;
  - 4. All bank statements and documents verifying reconciliation;
  - 5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
  - 6. All first care forms required in R9-25-514 and R9-25-615;
  - 7. All patient billing and reimbursement records;
  - 8. All dispatch records, including the following:
    - a. The name of the ground ambulance service;
    - b. The month of the record;
    - c. The date of each transport;
    - d. The number assigned to the ground ambulance vehicle by the certificate holder;
    - e. Names of the ambulance attendants;
    - f. The scene;
    - g. The actual response time;

- h. The response code;
- i. The scene locality;
- j. Whether the scene to which the ground ambulance vehicle is dispatched is outside of the certificate holder's service area; and
- k. Whether the dispatch is a scheduled transport;
- 9. All ground ambulance service back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, EMS, and transport;
- 10. All written ground ambulance service complaints; and
- 11. Information about destroyed or otherwise irretrievable records in a file including:
  - a. A list of each record destroyed or otherwise irretrievable;
  - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable; and
  - c. The date each record was destroyed or became otherwise irretrievable.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-911. Ground Ambulance Service Advertising (A.R.S. § 36-2232)**

- A.** A certificate holder shall not advertise that it provides a type or level of ground ambulance service or operates in a service area different from that granted in the certificate of necessity.
- B.** When advertising, a certificate holder shall not direct the circumvention of the use of 9-1-1 or another similarly designated emergency telephone number.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-912. Disciplinary Action (A.R.S. §§ 36-2244, 36-2245)**

- A.** After notice and opportunity to be heard is given according to the procedures in A.R.S. Title 41, Chapter 6, Article 10, a certificate of necessity may be suspended, revoked, or other disciplinary action taken for the following reasons:
  - 1. The certificate holder has:
    - a. Demonstrated substandard performance; or
    - b. Been determined not to be fit and proper by the Director;
  - 2. The certificate holder has provided false information or documents:
    - a. On an application for a certificate of necessity;
    - b. Regarding any matter relating to its ground ambulance vehicles or ground ambulance service; or
    - c. To a patient, third-party payor, or other person billed for service; or
  - 3. The certificate holder has failed to:
    - a. Comply with the applicable requirements of A.R.S. Title 36, Chapter 21.1, Articles 1 and 2 or 9 A.A.C. 25; or
    - b. Comply with any term of its certificate of necessity or any rates and charges schedule filed by the certificate holder and approved by the Department.
- B.** In determining the type of disciplinary action to impose under A.R.S. § 36-2245, the Director shall consider:
  - 1. The severity of the violation relative to public health and safety;
  - 2. The number of violations relative to the annual transport volume of the certificate holder;
  - 3. The nature and circumstances of the violation;

4. Whether the violation was corrected, the manner of correction, and the time-frame involved; and
5. The impact of the penalty or assessment on the provision of ground ambulance service in the certificate holder's service area.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**Exhibit A. Ambulance Revenue and Cost Report, General Information and Certification**

Legal Name of Company: \_\_\_\_\_ CON No. \_\_\_\_\_  
 D.B.A. (Doing Business As): \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_  
 Financial Records Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Mailing Address (If Different): \_\_\_\_\_ City: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Owner/Manager: \_\_\_\_\_  
 Report Contact Person: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_ Ext. \_\_\_\_\_  
 Report for Period From: \_\_\_\_\_ To: \_\_\_\_\_  
 Method of Valuing Inventory: LIFO: ( ) FIFO: ( ) Other (Explain): \_\_\_\_\_

Please attach a list of all affiliated organizations (parents/subsidiaries) that exhibit at least 5% ownership/ vesting.

**CERTIFICATION**

*I hereby certify that I have directed the preparation of the Arizona Ambulance Revenue and Cost Report for the facility listed above in accordance with the reporting requirements of the State of Arizona.*

*I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.*

***This report has been prepared using the accrual basis of accounting.***

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Mail to:

Department of Health Services, Bureau of Emergency Medical Services, Certificate of Necessity and Rates Section  
 1651 East Morten Avenue, Suite 130, Phoenix, AZ 85020  
 Telephone: (602) 861-0809; Fax: (602) 861-9812

n:\oems\data\L&I\comp\ambulanc\he\forms\arcr\general  
 Revised 8/5/99



**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_STATISTICAL SUPPORT DATA

<b>Line No. DESCRIPTION</b>	<b>(1) SUBSCRIPTION SERVICE TRANSPORTS</b>	<b>(2)** TRANSPORTS UNDER CONTRACT</b>	<b>(3) TRANSPORTS NOT UNDER CONTRACT</b>	<b>(4) TOTALS</b>
01 Number of ALS Billable Runs . . . . .	_____	_____	_____	_____
02 Number of BLS Billable Runs . . . . .	_____	_____	_____	_____
03 Number of Loaded Billable Miles . . . . .	_____	_____	_____	_____
04 Waiting Time (Hr. & Min.) . . . . .	_____	_____	_____	_____
05 Total Canceled (Non-Billable) Runs . . . . .	_____	_____	_____	_____
				Number
Volunteer Services: (OPTIONAL)				Donated Hours
06 Paramedic and IEMT . . . . .				_____
07 Emergency Medical Technician - B . . . . .				_____
08 Other Ambulance Attendants . . . . .				_____
09 Total Volunteer Hours . . . . .				_____

\*\*This column reports only those runs where a contracted discount rate was applied. See Page 7 to provide additional information regarding discounted contract runs.

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_STATISTICAL SUPPORT DATA

<b>Line No. TYPE OF SERVICE</b>	<b>(1) SUBSIDIZED PATIENTS</b>	<b>(2) NON- SUBSIDIZED PATIENTS</b>	<b>(3) TOTALS</b>
01 Number of Advanced Life Support Billable Runs . . . . .	_____	_____	_____
02 Number of Basic Life Support Billable Runs . . . . .	_____	_____	_____
03 Number of Loaded Billable Miles . . . . .	_____	_____	_____
04 Waiting Time (Hours and Minutes) . . . . .	_____	_____	_____
05 Total Canceled (Non-Billable) Runs . . . . .	_____	_____	_____
			Number
Volunteer Services: (OPTIONAL)			Donated Hours
06 Paramedic and IEMT . . . . .			_____
07 Emergency Medical Technician - B . . . . .			_____
08 Other Ambulance Attendants _____ . . . . .			_____
09 Total Volunteer Hours . . . . .			_____

Note: This page and page 3.1, Routine Operating Revenue, are only for those governmental agencies that apply subsidy to patient billings.

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_STATEMENT OF INCOME**Line****No. DESCRIPTION****FROM**

## Operating Revenue:

01 Ambulance Service Routine Operating Revenue . . . . .Page 3 Line 10 \$ \_\_\_\_\_

## Less:

02 AHCCCS Settlement . . . . . \_\_\_\_\_

03 Medicare Settlement. . . . . \_\_\_\_\_

04 Contractual Discounts. . . . .Page 7 Line 22 \_\_\_\_\_

05 Subscription Service Settlement. . . . .Page 8 Line 4 \_\_\_\_\_

06 Other (Attach Schedule). . . . . \_\_\_\_\_

07 Total. . . . . \_\_\_\_\_

08 Net Revenue from Ambulance Runs . . . . . \$ \_\_\_\_\_

09 Sales of Subscription Service Contracts. . . . .Page 8 Line 8 \_\_\_\_\_

10 Total Operating Revenue . . . . . \$ \_\_\_\_\_

## Ambulance Operating Expenses:

11 Bad Debt (Includes Subscription Services Bad Debt) \$ \_\_\_\_\_

12 Wages, Payroll Taxes, and Employee Benefits. . . . .Page 4 Line 22 \_\_\_\_\_

13 General and Administrative Expenses . . . . .Page 5 Line 20 \_\_\_\_\_

14 Cost of Goods Sold. . . . .Page 3 Line 15 \_\_\_\_\_

15 Other Operating Expenses . . . . .Page 6 Line 28 \_\_\_\_\_

16 Interest Expense (Attach Schedule IV) . . . . .Page 14 CI 4 &amp; 5 Line 28 \_\_\_\_\_

17 Subscription Service Direct Selling. . . . .Page 8 Line 23 \_\_\_\_\_

18 Total Operating Expenses . . . . . \_\_\_\_\_

19 Ambulance Service Income (Loss) (Line 10 minus Line 18) . . . . . \$ \_\_\_\_\_

## Other Revenue/Expenses:

20 Other Operating Revenue and Expenses . . . . .Page 9 Line 17 \$ \_\_\_\_\_

21 Non-Operating Revenue and Expense . . . . . \_\_\_\_\_

22 Non-Deductible Expenses (Attach Schedule) . . . . . \_\_\_\_\_

23 Total Other Revenues/Expenses . . . . . \_\_\_\_\_

24 Ambulance Service Income (Loss) - Before Income Taxes . . . . . \$ \_\_\_\_\_

## Provision for Income Taxes:

25 Federal Income Tax. . . . . \$ \_\_\_\_\_

26 State Income Tax. . . . . \_\_\_\_\_

27 Total Income Tax . . . . . \_\_\_\_\_

28 Ambulance Service - Net Income (Loss) . . . . . \$ \_\_\_\_\_

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**ROUTINE OPERATING REVENUE****Line****No. DESCRIPTION**

Ambulance Service Routine Operating Revenue:

01	ALS Base Rate. . . . .	\$ _____
02	BLS Base Rate. . . . .	_____
03	Mileage Charge . . . . .	_____
04	Waiting Charge. . . . .	_____
05	Medical Supplies (Gross Charges). . . . .	_____
06	Nurses Charges . . . . .	_____
07	Total . . . . .	\$ _____
08	Standby Revenue (Attach Schedule) . . . . .	_____
09	Other Ambulance Service Revenue (Attach Schedule) . . . . .	_____
10	Total Ambulance Service Routine Operating Revenue (To Page 2, Line 01) . . . . .	\$ _____

**COST OF GOODS SOLD: (MEDICAL SUPPLIES)**

11	Inventory at Beginning of Year . . . . .	_____
12	Plus Purchases. . . . .	_____
13	Plus Other Costs. . . . .	_____
14	Less Inventory at End of Year. . . . . (_____)	
15	Cost of Goods Sold (To Page 2, Line 14). . . . .	\$ _____

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

ROUTINE OPERATING REVENUE

Line No. DESCRIPTION	(1) SUBSIDIZED PATIENTS	(2) NON- SUBSIDIZED PATIENTS	(3) <b>TOTALS</b>
<b>AMBULANCE SERVICE OPERATING REVENUE</b>			
01 ALS Base Rate . . . . .	\$ _____	\$ _____	\$ _____
02 BLS Base Rate . . . . .	_____	_____	_____
03 Mileage Charge. . . . .	_____	_____	_____
04 Waiting Charge. . . . .	_____	_____	_____
05 Medical Supplies (Gross Charges). . . . .	_____	_____	_____
06 Nurses' Charges. . . . .	_____	_____	_____
07 Total . . . . .	\$ _____	\$ _____	\$ _____
08 Standby Revenue (Attach Schedule) . . . . .			_____
09 Other Ambulance Service Revenue (Attach Schedule) . . . . .			_____
10 Total Ambulance Service Routine Operating Revenue (Column 3 to Page 2, Line 01) . . . . .			\$ _____
Less:			
11 AHCCCS Settlement . . . . .	\$ _____	\$ _____	\$ _____
12 Medicare Settlement . . . . .	_____	_____	_____
13 Subsidy . . . . .	_____	xxxxxxxxxxxxxx	_____
14 Other (Attach Schedule) . . . . .	_____	_____	_____
15 Total Settlements (Column 3 to Page 2, Line 06) . . . . .	\$ _____	\$ _____	\$ _____
<b>Cost of Goods Sold:</b>			
16 Inventory at Beginning of Year . . . . .			\$ _____
17 Plus Purchases. . . . .			_____
18 Plus Other Costs. . . . .			_____
19 Less Inventory at End of Year. . . . .			( _____ )
20 Cost of Goods Sold (Column 3 to Page 2, Line 14) . . . . .			\$ _____

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

<b>Line No. DESCRIPTION</b>	<b>No. of *F.T.E.s</b>	<b>AMOUNT</b>
01 Gross Wages - OFFICERS/OWNERS (Attach Schedule I, Page 10, Line 7) . . . .	_____	\$ _____
02 Payroll Taxes . . . . .	_____	_____
03 Employee Fringe Benefits . . . . .	_____	_____
04 Total . . . . .	_____	\$ _____
05 Gross Wages - MANAGEMENT (Attach Schedule II) . . . . .	_____	\$ _____
06 Payroll Taxes. . . . .	_____	_____
07 Employee Fringe Benefits . . . . .	_____	_____
08 Total . . . . .	_____	\$ _____

**Gross Wages - AMBULANCE PERSONNEL (Attach Schedule II)**

	<b>**Casual Labor</b>	<b>Wages</b>	
09 Paramedics and IEMT. . . . .	_____	_____	\$ _____
10 Emergency Medical Technician (EMT). _____	_____	_____	_____
11 Nurses. . . . .	_____	_____	_____
12 Payroll Taxes. . . . .	_____	_____	_____
13 Employee Fringe Benefits . . . . .	_____	_____	_____
14 Total. . . . .	_____	_____	\$ _____

**Gross Wages - OTHER PERSONNEL (Attach Schedule II)**

15 Dispatch. . . . .	_____	\$ _____
16 Mechanics . . . . .	_____	_____
17 Office and Clerical . . . . .	_____	_____
18 Other . . . . .	_____	_____
19 Payroll Taxes. . . . .	_____	_____
20 Employee Fringe Benefits . . . . .	_____	_____
21 Total. . . . .	_____	\$ _____
22 Total F.T.E.s' Wages, Payroll Taxes, & Employee Benefits (To Page 2, Line 12) .	_____	\$ _____

\* Full-time equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2,080.

\*\* The sum of Casual Labor (wages paid on a per run basis) plus Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include casual labor hours worked or expenses incurred.

## Department of Health Services – Emergency Medical Services

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	DESCRIPTION	(1) No. of *F.T.E.s	(2) Total Expenditure	(3) Allocation Percentage	(4) Ambulance Amount
01	Gross Wages - Management (Attach Schedule II) . . . . .	_____	\$ _____	_____	_____
02	Payroll Taxes. . . . .	_____	_____	_____	_____
03	Employee Fringe Benefits. . . . .	_____	_____	_____	_____
04	Total . . . . .	_____	\$ _____	_____	_____
<b>Gross Wages - Ambulance Personnel</b> (Attach Schedule) :					
	<u>**Contractual</u> <u>Wages</u>				
05	Paramedics and IEMT . . . . .	_____	\$ _____	_____	_____
06	Emergency Medical Technician (EMT) . . . . .	_____	_____	_____	_____
07	Nurses. . . . .	_____	_____	_____	_____
08	Drivers. . . . .	_____	_____	_____	_____
09	Payroll Taxes. . . . .	_____	_____	_____	_____
10	Employee Fringe Benefits. . . . .	_____	_____	_____	_____
11	Total. . . . .	_____	\$ _____	_____	_____
<b>Gross Wages - Other Personnel</b> (Attach Schedule II):					
12	Dispatch. . . . .	_____	\$ _____	_____	_____
13	Mechanics . . . . .	_____	_____	_____	_____
14	Office and Clerical . . . . .	_____	_____	_____	_____
15	Other . . . . .	_____	_____	_____	_____
16	Payroll Taxes. . . . .	_____	_____	_____	_____
17	Employee Fringe Benefits . . . . .	_____	_____	_____	_____
18	Total. . . . .	_____	\$ _____	_____	_____
19	Total F.T.E.s' Wages, Payroll Taxes, and Employee Benefits (To Page 2, Line 12) _____	_____	\$ _____	_____	_____

\* Full-Time Equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2,080.

\*\* The sum of Contractual + Wages paid is entered in Column 2 by line item. However, when calculating F.T.E.s, do not include contractual hours worked or expenses incurred.

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

WAGES, PAYROLL TAXES, AND EMPLOYEE BENEFITS

Line No.	<u>DESCRIPTION</u>	<u>Basis of Allocations</u>
01	Gross Wages - Management .....	_____
02	Payroll Taxes .....	_____
03	Employee Fringe Benefits .....	_____
04	Total .....	_____
<b>Gross Wages - Ambulance Personnel:</b>		<b><u>Contractual</u></b>
		<b><u>Wages</u></b>
05	Paramedics and IEMT. ....	_____
06	Emergency Medical Technician (EMT). ....	_____
07	Nurses .....	_____
08	Drivers .....	_____
09	Payroll Taxes .....	_____
10	Employee Fringe Benefits .....	_____
11	Total .....	_____
<b>Gross Wages - Other Personnel:</b>		
12	Dispatch .....	_____
13	Mechanics .....	_____
14	Office and Clerical .....	_____
15	Other .....	_____
16	Payroll Taxes .....	_____
17	Employee Fringe Benefits .....	_____
18	Total .....	_____



**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_GENERAL AND ADMINISTRATIVE EXPENSES**Line****No. DESCRIPTION****Professional Services:**

01 Legal Fees ..... \$ \_\_\_\_\_  
02 Collection Fees. .... \_\_\_\_\_  
03 Accounting and Auditing ..... \_\_\_\_\_  
04 Data Processing Fees. .... \_\_\_\_\_  
05 Other (Attach Schedule) ..... \_\_\_\_\_  
  
06 Total ..... \$ \_\_\_\_\_

**Travel and Entertainment:**

07 Meals and Entertainment. .... \$ \_\_\_\_\_  
08 Transportation - Other Company Vehicles ..... \_\_\_\_\_  
09 Travel ..... \_\_\_\_\_  
10 Other (Attach Schedule) ..... \_\_\_\_\_  
  
11 Total ..... \$ \_\_\_\_\_

**Other General and Administrative:**

12 Office Supplies ..... \$ \_\_\_\_\_  
13 Postage ..... \_\_\_\_\_  
14 Telephone ..... \_\_\_\_\_  
15 Advertising ..... \_\_\_\_\_  
16 Professional Liability Insurance. .... \_\_\_\_\_  
17 Dues and Subscriptions ..... \_\_\_\_\_  
18 Other (Attach Schedule) ..... \_\_\_\_\_  
  
19 Total ..... \$ \_\_\_\_\_  
  
20 Total General and Administrative Expenses (To Page 2, Line 13). .... \$ \_\_\_\_\_

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

GENERAL AND ADMINISTRATIVE EXPENSES

Line No.	DESCRIPTION	(1) Total Expenditure	(2) Allocation Percentage	(3) Ambulance Amount
<b>Professional Services:</b>				
01	Legal Fees .....	\$ _____	_____	\$ _____
02	Collection Fees. ....	_____	_____	_____
03	Accounting and Auditing .....	_____	_____	_____
04	Data Processing Fees.....	_____	_____	_____
05	Other (Attach Schedule) .....	_____	_____	_____
06	Total .....	\$ _____		\$ _____
<b>Travel and Entertainment:</b>				
07	Meals and Entertainment .....	\$ _____	_____	\$ _____
08	Transportation - Other Company Vehicles .....	_____	_____	_____
09	Travel .....	_____	_____	_____
10	Other (Attach Schedule) .....	_____	_____	_____
11	Total .....	\$ _____		\$ _____
<b>Other General and Administrative:</b>				
12	Office Supplies .....	\$ _____	_____	\$ _____
13	Postage .....	_____	_____	_____
14	Telephone .....	_____	_____	_____
15	Advertising .....	_____	_____	_____
16	Professional Liability Insurance .....	_____	_____	_____
17	Dues and Subscriptions .....	_____	_____	_____
18	Other (Attach Schedule) .....	_____	_____	_____
19	Total .....	\$ _____		\$ _____
20	Total General & Administrative Expenses (to Page 2, Line 13)	\$ _____		\$ _____

## Department of Health Services – Emergency Medical Services

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

GENERAL AND ADMINISTRATIVE EXPENSES (cont.)

<u>Line No.</u>	<u>DESCRIPTION</u>	<u>Basis of Allocations</u>
<b>Professional Services:</b>		
01	Legal Fees .....	_____
02	Collection Fees.....	_____
03	Accounting and Auditing .....	_____
04	Data Processing Fees.....	_____
05	Other (Attach Schedule) .....	_____
06	Total .....	_____
<b>Travel and Entertainment:</b>		
07	Meals and Entertainment .....	_____
08	Transportation - Other Company Vehicles .....	_____
09	Travel .....	_____
10	Other (Attach Schedule) .....	_____
11	Total .....	_____
<b>Other General and Administrative:</b>		
12	Office Supplies .....	_____
13	Postage .....	_____
14	Telephone .....	_____
15	Advertising .....	_____
16	Professional Liability Insurance .....	_____
17	Dues and Subscriptions ..	_____
18	Other (Attach Schedule) .....	_____
19	Total .....	_____

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**OTHER OPERATING EXPENSES****Line****No. OTHER OPERATING EXPENSES****Depreciation and Amortization:**

01 Depreciation (Attach Schedule III) (From Line 20, Col I, Page 13) . . . . \$ \_\_\_\_\_

02 Amortization . . . . . \_\_\_\_\_

03 Total . . . . . \$ \_\_\_\_\_

04 Rent/Lease (Attach Schedule III) (From Line 20, Col K, Page 13) . . . . . \$ \_\_\_\_\_

**Building/Station Expense:**

05 Building and Cleaning Supplies . . . . . \$ \_\_\_\_\_

06 Utilities . . . . . \_\_\_\_\_

07 Property Taxes . . . . . \_\_\_\_\_

08 Property Insurance . . . . . \_\_\_\_\_

09 Repairs and Maintenance . . . . . \_\_\_\_\_

10 Other (Attach Schedule) . . . . . \_\_\_\_\_

11 Total . . . . . \$ \_\_\_\_\_

**Vehicle Expense - Ambulance Units:**

12 License/Registration . . . . . \$ \_\_\_\_\_

13 Fuel . . . . . \_\_\_\_\_

14 General Vehicle Service and Maintenance . . . . . \_\_\_\_\_

15 Major Repairs . . . . . \_\_\_\_\_

16 Insurance - Service Vehicles . . . . . \_\_\_\_\_

17 Other (Attach Schedule) . . . . . \_\_\_\_\_

18 Total . . . . . \$ \_\_\_\_\_

**Other Expenses:**

19 Dispatch . . . . . \_\_\_\_\_

20 Education/Training . . . . . \_\_\_\_\_

21 Uniforms and Uniform Cleaning . . . . . \_\_\_\_\_

22 Meals and Travel for Ambulance Personnel . . . . . \_\_\_\_\_

23 Maintenance Contracts . . . . . \_\_\_\_\_

24 Minor Equipment - Not Capitalized . . . . . \_\_\_\_\_

25 Ambulance Supplies - Nonchargeable . . . . . \_\_\_\_\_

26 Other (Attach Schedule) . . . . . \_\_\_\_\_

27 Total . . . . . \$ \_\_\_\_\_

28 Total Other Operating Expenses (To Page 2, Line 15) . . . . . \$ \_\_\_\_\_

## Department of Health Services – Emergency Medical Services

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

OTHER OPERATING EXPENSES

<b>OTHER OPERATING EXPENSES</b>	<b>(1) Total Expenditure</b>	<b>(2) Allocation Percentage</b>	<b>(3) Ambulance Amount</b>
<b>Depreciation and Amortization:</b>			
Depreciation (Attach Schedule III) (From Line 20, Col I, Page 12) . . . . .	\$ _____	_____	_____
Amortization . . . . .	_____	_____	_____
Total . . . . .	\$ _____	_____	_____
Rent/Lease (Attach Schedule III) Line 20, Col K, Page 12 . . . . .	\$ _____	_____	_____
<b>Building/Station Expense:</b>			
Building and Cleaning Supplies . . . . .	\$ _____	_____	_____
Utilities . . . . .	_____	_____	_____
Property Taxes . . . . .	_____	_____	_____
Property Insurance . . . . .	_____	_____	_____
Repairs and Maintenance . . . . .	_____	_____	_____
Other (Attach Schedule) . . . . .	_____	_____	_____
Total . . . . .	\$ _____	_____	_____
<b>Vehicle Expense - Ambulance Units:</b>			
License/Registration . . . . .	\$ _____	_____	_____
Fuel . . . . .	_____	_____	_____
General Vehicle Service and Maintenance . . . . .	_____	_____	_____
Major Repairs . . . . .	_____	_____	_____
Insurance - Service Vehicles . . . . .	_____	_____	_____
Other (Attach Schedule) . . . . .	_____	_____	_____
Total . . . . .	\$ _____	_____	_____
<b>Other Expenses:</b>			
Dispatch . . . . .	\$ _____	_____	_____
Education/Training . . . . .	_____	_____	_____
Uniforms and Uniform Cleaning . . . . .	_____	_____	_____
Meals and Travel for Ambulance Personnel . . . . .	_____	_____	_____
Maintenance Contracts . . . . .	_____	_____	_____
Minor Equipment - Not Capitalized . . . . .	_____	_____	_____
Ambulance Supplies - Nonchargeable . . . . .	_____	_____	_____
Other (Attach Schedule) . . . . .	_____	_____	_____
Total . . . . .	\$ _____	_____	_____
Total Other Operating Expenses (To Page 2, Line 15) . . . . .	\$ _____	_____	_____

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

OTHER OPERATING EXPENSES

Line

**No. OTHER OPERATING EXPENSES****Basis of Allocations****Depreciation and Amortization:**

01	Depreciation .....	_____
02	Amortization .....	_____
03	Total .....	_____
04	Rent/Lease .....	_____

**Building/Station Expense:**

05	Building and Cleaning Supplies .....	_____
06	Utilities .....	_____
07	Property Taxes .....	_____
08	Property Insurance .....	_____
09	Repairs and Maintenance .....	_____
10	Other (Attach Schedule) .....	_____
11	Total .....	_____

**Vehicle Expense - Ambulance Units:**

12	License/Registration .....	_____
13	Fuel .....	_____
14	General Vehicle Service and Maintenance .....	_____
15	Major Repairs .....	_____
16	Insurance - Service Vehicles .....	_____
17	Other (Attach Schedule) .....	_____
18	Total .....	_____

**Other Expenses:**

19	Dispatch .....	_____
20	Education/Training .....	_____
21	Uniforms and Uniform Cleaning .....	_____
22	Meals and Travel for Ambulance Personnel .....	_____
23	Maintenance Contracts .....	_____
24	Minor Equipment - Not Capitalized .....	_____
25	Ambulance Supplies - Nonchargeable .....	_____
26	Other (Attach Schedule) .....	_____
27	Total .....	_____

Page 6.1.a

## Department of Health Services – Emergency Medical Services

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

DETAIL OF CONTRACTUAL ALLOWANCES

Line		Total	Gross	Percent	
No.	<u>Name of Contracting Entity</u>	<u>Billable</u>	<u>Billing</u>	<u>Discount</u>	<u>Allowance</u>
		<u>Runs</u>			
01	_____	_____	_____	_____	_____
02	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____
08	_____	_____	_____	_____	_____
09	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____
14	_____	_____	_____	_____	_____
15	_____	_____	_____	_____	_____
16	_____	_____	_____	_____	_____
17	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____
19	_____	_____	_____	_____	_____
20	_____	_____	_____	_____	_____
21	_____	_____	_____	_____	_____
22	Total (To Page 2, Line 4)				_____

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_SUBSCRIPTION SERVICE REVENUE AND  
DIRECT SELLING EXPENSES**Line****No. Description****To**

01 Billings at Fully Established Rate . . . . . \$ \_\_\_\_\_

Less:

02 AHCCCS Settlement . . . . . \_\_\_\_\_

03 Medicare Settlement . . . . . \_\_\_\_\_

04 Subscription Service Settlements . . . . . (To Page 2, Line 5) \_\_\_\_\_

05 Subscription Service Bad Debt . . . . . \_\_\_\_\_

06 Total . . . . . \$ \_\_\_\_\_

07 Net Revenue from Subscription Service Runs . . . . . \_\_\_\_\_

08 Sales of Subscription Service . . . . . (To Page 2, Line 9) . . . . . \_\_\_\_\_

09 Other Revenue (Attach Schedule) . . . . . \_\_\_\_\_

10 Total Subscription Service Revenue . . . . . \$ \_\_\_\_\_

**Direct Expenses Incurred Selling Subscription Contracts:**

11 Salaries/Wages . . . . . \$ \_\_\_\_\_

12 Payroll Taxes . . . . . \_\_\_\_\_

13 Employee Fringe Benefits . . . . . \_\_\_\_\_

14 Professional Services . . . . . \_\_\_\_\_

15 Contract Labor . . . . . \_\_\_\_\_

16 Travel . . . . . \_\_\_\_\_

17 Other General and Administrative Expenses . . . . . \_\_\_\_\_

18 Depreciation/Amortization . . . . . \_\_\_\_\_

19 Rent/Lease . . . . . \_\_\_\_\_

20 Building/Station Expense . . . . . \_\_\_\_\_

21 Transportation/Vehicles . . . . . \_\_\_\_\_

22 Other (Attach Schedule) . . . . . \_\_\_\_\_

23 Total Subscription Service Expenses . . . . . (To Page 2, Line 17) . . . . . \$ \_\_\_\_\_



**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_OTHER OPERATING REVENUES AND EXPENSES**Line  
No. DESCRIPTION****Other Operating Revenues:**

01	Supportive Funding - Local (Attach Schedule) .....	\$ _____
02	Grant Funds - State (Attach Schedule) .....	_____
03	Grant Funds - Federal (Attach Schedule) .....	_____
04	Grant Funds - Other (Attach Schedule) .....	_____
05	Patient Finance Charges .....	_____
06	Patient Late Payment Charges .....	_____
07	Interest Earned - Related Person/Organization .....	_____
08	Interest Earned - Other .....	_____
09	Gain on Sale of Operating Property .....	_____
10	Other: _____ .....	_____
11	Other: _____ .....	_____
12	Total Operating Revenue .....	\$ _____

**Other Operating Expenses:**

13	Loss on Sale of Operating Property .....	\$ _____
14	Other: _____ .....	_____
15	Other: _____ .....	_____
16	Total Other Operating Expenses .....	\$ _____
17	Net Other Operating Revenues and Expenses (To Page 2, Line 20) .....	\$ _____

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

DETAIL OF SALARIES/WAGES  
OFFICERS/OWNERS  
SCHEDULE 1

Wages Paid by Category

Line No.	Name	Title	% of Ownership	Management	*FTE	CEP IEMT EMT	*FTE	Office	*FTE	Other	*FTE	<u>Totals</u>	
												Wages Paid To Owners	*FTE
01	_____	_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____	\$_____	_____
02	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
05	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
06	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____1	_____
07	<b>TOTAL</b>	=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====	\$=====	=====

\* Full-time equivalents (F.T.E.) Is the sum of all hours for which employee wages were paid during the year divided by 2080

1 Total wages paid to owners to Page 4 Col 2 Line 01

2 Total FTEs to Page 4 Col 1 Line 01

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

OPERATING EXPENSES  
DETAIL OF SALARIES/WAGES  
SCHEDULE II

Line

No. Detail of Salaries/Wages - Other Than Officers/Owners

### 01 MANAGEMENT:

### METHOD OF COMPENSATION:

Certification and/or Title	Scheduled Shifts (I.e. 40 or 60 hours a week)	Hourly Wage	Annual Salary	\$s Per Run or Shift
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

### 02 AMBULANCE PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

### 03 OTHER PERSONNEL:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

**DEPRECIATION AND/OR RENT/LEASE EXPENSE  
SCHEDULE III****AMBULANCE VEHICLES AND  
ACCESSORIAL EQUIPMENT ONLY**

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20	<b>SUBTOTAL</b>	XXX	XXX	XXX	XXX	XXX	XXX	XXX	1	XXX	2

\* Complete Description of property, date placed in service, and rent/lease amount only.

1 To Page 13, Line 19, Column I

2 To Page 13, Line 19, Column K

## Department of Health Services – Emergency Medical Services

## AMBULANCE REVENUE AND COST REPORT

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

**DEPRECIATION AND/OR RENT/LEASE EXPENSE  
SCHEDULE III****ALL OTHER ITEMS**

	A	B	C	D	E	F	G	H	I	J	K
Line No.	Description of Property	Date Placed in Service	Cost or Other Basis	Business Use Percent	Basis for Depreciation	Method	Recovery Period	Depreciation Prior Years	Current Year Depreciation	Remaining Basis	Rent/Lease Amount*
01											
02											
03											
04											
05											
06											
07											
08											
09											
10											
11											
12											
13											
14											
15											
16											
17											
18	SUBTOTAL	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
19	SUBTOTAL from Page 12, Line 20	XXX	XXX	XXX	XXX	XXX	XXX	XXX		XXX	
20	SUM of Line 18 and 19	XXX	XXX	XXX	XXX	XXX	XXX	XXX	3	XXX	4

\* Complete Description of property, date placed in service, and rent/lease amount only.

3 To Page 6, Line 01

4 To Page 6, Line 04

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

**DETAIL OF INTEREST - Schedule IV**

Line No.	Description	(1) Interest Rate	(2) Principal Balance Beginning of Period	(3) End of Period	(4) Interest Expense Related Persons or Organizations	(5) Other
	Service Vehicles & Accessorial Equipment					
	Name of Payee:					
01	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
02	_____	_____	_____	_____	_____	_____
03	_____	_____	_____	_____	_____	_____
04	_____	_____	_____	_____	_____	_____
	Communication Equipment					
	Name of Payee:					
05	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
06	_____	_____	_____	_____	_____	_____
07	_____	_____	_____	_____	_____	_____
	Other Property and Equipment					
	Name of Payee:					
08	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
09	_____	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____	_____
	Working Capital					
	Name of Payee:					
11	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
12	_____	_____	_____	_____	_____	_____
13	_____	_____	_____	_____	_____	_____
	Other					
	Name of Payee:					
14	_____	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
15	TOTAL		\$ _____	\$ _____	\$ _____	\$ _____

----- (To Page 2, Column 2, Line 16) -----

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**BALANCE SHEET****ASSETS****CURRENT ASSETS**

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____

**PROPERTY & EQUIPMENT**

08	Less: Accumulated Depreciation		\$ _____
09	OTHER NONCURRENT ASSETS		\$ _____
10	TOTAL ASSETS		\$ _____

**LIABILITIES AND EQUITY****CURRENT LIABILITIES**

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long Term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____
19	NOTES PAYABLE	_____	
20	LONG TERM DEBT OTHER	_____	
21	TOTAL LONG-TERM DEBT		\$ _____

**EQUITY AND OTHER CREDITS****Paid-in Capital:**

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	
27	TOTAL EQUITY		\$ _____
28	TOTAL LIABILITIES & EQUITY		\$ _____

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**STATEMENT OF CASH FLOWS****OPERATING ACTIVITIES:**

01	Net (loss) Income	\$ _____	
	Adjustments to reconcile net income to net cash provided by operating activities:		
02	Depreciation Expense	_____	
03	Deferred Income Tax	_____	
04	Loss (gain) on Disposal of Property and Equipment	_____	
	(Increase) Decrease in:		
05	Accounts Receivable	_____	
06	Inventories	_____	
07	Prepaid Expenses	_____	
	(Increase) Decrease in:		
08	Accounts Payable	_____	
09	Accrued Expenses	_____	
10	Deferred Subscription Income	_____	
11	Net Cash Provided (Used) by Operating Activities		\$ _____

**INVESTING ACTIVITIES:**

12	Purchases of Property and Equipment	\$ _____	
13	Proceeds from Disposal of Property and Equipment	_____	
14	Purchases of Investments	_____	
15	Proceeds from Disposal of Investments	_____	
16	Loans Made	_____	
17	Collections on Loans	_____	
18	Other _____	_____	
19	Net Cash Provided (Used) by Investing Activities		\$ _____

**FINANCING ACTIVITIES:**

	New Borrowings:		
20	Long-Term	\$ _____	
21	Short-Term	_____	
	Debt Reduction:		
22	Long-Term	_____	
23	Short-Term	_____	
24	Capital Contributions	_____	
25	Dividends paid	_____	
26	Net Cash Provided (Used) by Financing Activities		\$ _____
27	Net Increase (Decrease) in Cash		\$ _____
28	Cash at Beginning of Year		\$ _____
29	Cash at End of Year		\$ _____

**30 SUPPLEMENTAL DISCLOSURES:**

	Non-cash Investing and Financing Transactions:		
31	_____		\$ _____
32	_____		_____
33	Interest Paid (Net of Amounts Capitalized)		_____
34	Income Taxes Paid		_____



Department of Health Services – Emergency Medical Services

from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

**Exhibit B. Ambulance Revenue and Cost Report, Fire District and Small Rural Company****Department of Health Services  
Annual Ambulance Financial Report****Reporting Ambulance Service**

**Report Fiscal Year**  
**From:** \_\_\_\_/\_\_\_\_/\_\_\_\_ **To:** \_\_\_\_/\_\_\_\_/\_\_\_\_  
**Mo. Day Year Mo. Day Year**

**CERTIFICATION**

*I hereby certify that I have directed the preparation of the enclosed annual report in accordance with the reporting requirements of the State of Arizona.*

*I have read this report and hereby certify that the information provided is true and correct to the best of my knowledge.*

***This report has been prepared using the accrual basis of accounting.***

*Authorized Signature:* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Print Name and Title:* \_\_\_\_\_

**Mail to:**

Department of Health Services  
Bureau of Emergency Medical Services  
Certificate of Necessity and Rates Section  
1651 East Morten Avenue, Suite 130  
Phoenix, AZ 85020  
Telephone: (602) 861-0809  
Fax: (602) 861-9812

n:\oems\data\L&I\comp\amb-reg\ambulace\he\forms\arcr\fire-dist

Revised 8/2/00

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

STATISTICAL SUPPORT DATA

<b>Line No. DESCRIPTION</b>	<b>(1) SUBSCRIPTION SERVICE TRANSPORTS</b>	<b>*(2) TRANSPORTS UNDER CONTRACT</b>	<b>(3) TRANSPORTS NOT UNDER CONTRACT</b>	<b>(4) TOTALS</b>
01 Number of ALS Billable Transports:	_____	_____	_____	_____
02 Number of BLS Billable Transports:	_____	_____	_____	_____
03 Number of Loaded Billable Miles:	_____	_____	_____	_____
04 Waiting Time (Hr. & Min.):	_____	_____	_____	_____
05 Canceled (Non-Billable) Runs:	_____	_____	_____	_____

**AMBULANCE SERVICE ROUTINE OPERATING REVENUE**

06 ALS Base Rate Revenue .....	\$ _____
07 BLS Base Rate Revenue .....	_____
08 Mileage Charge Revenue .....	_____
09 Waiting Charge Revenue .....	_____
10 Medical Supplies Charge Revenue .....	_____
11 Nurses Charge Revenue .....	_____
12 Standby Charge Revenue (Attach Schedule) .....	_____
13 TOTAL AMBULANCE SERVICE ROUTINE OPERATING REVENUE .....	\$ _____

**SALARY AND WAGE EXPENSE DETAIL****GROSS WAGES:****\*\*No. of F.T.E.s**

14 Management .....	\$ _____	\$ _____
15 Paramedics and IEMTs .....	\$ _____	\$ _____
16 Emergency Medical Technician (EMT) .....	\$ _____	\$ _____
17 Other Personnel .....	\$ _____	\$ _____
18 Payroll Taxes and Fringe Benefits - All Personnel .....	\$ _____	\$ _____

\*This column reports only those runs where a contracted discount rate was applied.

\*\*Full-time equivalents (F.T.E.) Is the sum of all hours for which employees wages were paid during the year divided by 2080.

**AMBULANCE REVENUE AND COST REPORT**

AMBULANCE SERVICE ENTITY: \_\_\_\_\_

FOR THE PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_

**SCHEDULE OF REVENUES AND EXPENSES****Line****No. DESCRIPTION****FROM****Operating Revenues:**

01 Total Ambulance Service Operating Revenue . . . . . Page 2, Line 13 \$ \_\_\_\_\_

## Settlement Amounts:

02 AHCCCS . . . . . ( )

03 Medicare . . . . . ( )

04 Subscription Service . . . . . ( )

05 Contractual . . . . . ( )

06 Other . . . . . ( )

07 Total (Sum of Lines 02 through 06) . . . . . ( )

08 Total Operating Revenue (Line 01 minus Line 07) . . . . . \$ \_\_\_\_\_

**Operating Expenses:**

09 Bad Debt

10 Total Salaries, Wages, and Employee- Related Expenses . . . . . \$ \_\_\_\_\_

11 Professional Services . . . . . \_\_\_\_\_

12 Travel and Entertainment . . . . . \_\_\_\_\_

13 Other General Administrative . . . . . \_\_\_\_\_

14 Depreciation. . . . . \_\_\_\_\_

15 Rent/Leasing . . . . . \_\_\_\_\_

16 Building/Station . . . . . \_\_\_\_\_

17 Vehicle Expense . . . . . \_\_\_\_\_

18 Other Operating Expense . . . . . \_\_\_\_\_

19 Cost of Medical Supplies Charged to Patients . . . . . \_\_\_\_\_

20 Interest . . . . . \_\_\_\_\_

21 Subscription Service Sales Expense . . . . . \_\_\_\_\_

22 Total Operating Expense (Sum of Lines 09 through 21) . . . . . \_\_\_\_\_

23 Total Operating Income or Loss (Line 08 minus Line 22). . . . . \$ \_\_\_\_\_

24 Subscription Contract Sales . . . . . \_\_\_\_\_

25 Other Operating Revenue . . . . . \_\_\_\_\_

26 Local Supportive Funding . . . . . \_\_\_\_\_

27 Other Non-Operating Income (Attach Schedule). . . . . \_\_\_\_\_

28 Other Non-Operating Expense (Attach Schedule). . . . . \_\_\_\_\_

29 NET INCOME/(LOSS) (Line 23 plus Sum of Lines 24 through 28). . . . . \$ \_\_\_\_\_

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**BALANCE SHEET****ASSETS****CURRENT ASSETS**

01	Cash	\$ _____	
02	Accounts Receivable	_____	
03	Less: Allowance for Doubtful Accounts	_____	
04	Inventory	_____	
05	Prepaid Expenses	_____	
06	Other Current Assets	_____	
07	TOTAL CURRENT ASSETS		\$ _____

**PROPERTY & EQUIPMENT**

08	Less: Accumulated Depreciation		\$ _____
----	--------------------------------	--	----------

09	OTHER NONCURRENT ASSETS		\$ _____
----	-------------------------	--	----------

10	TOTAL ASSETS		\$ _____
----	--------------	--	----------

**LIABILITIES AND EQUITY****CURRENT LIABILITIES**

11	Accounts Payable	\$ _____	
12	Current Portion of Notes Payable	_____	
13	Current Portion of Long term Debt	_____	
14	Deferred Subscription Income	_____	
15	Accrued Expenses and Other	_____	
16	_____	_____	
17	_____	_____	
18	TOTAL CURRENT LIABILITIES		\$ _____

19	NOTES PAYABLE	_____	
----	---------------	-------	--

20	LONG TERM DEBT OTHER	_____	
----	----------------------	-------	--

21	TOTAL LONG-TERM DEBT		\$ _____
----	----------------------	--	----------

**EQUITY AND OTHER CREDITS****Paid-in Capital:**

22	Common Stock	\$ _____	
23	Paid-In Capital in Excess of Par Value	_____	
24	Contributed Capital	_____	
25	Retained Earnings	_____	
26	Fund Balances	_____	
27	TOTAL EQUITY		\$ _____

28	TOTAL LIABILITIES & EQUITY		\$ _____
----	----------------------------	--	----------

**AMBULANCE REVENUE AND COST REPORT****AMBULANCE SERVICE ENTITY:** \_\_\_\_\_**FOR THE PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_**STATEMENT OF CASH FLOWS****OPERATING ACTIVITIES:**

01	Net (loss) Income	\$ _____
	Adjustments to reconcile net income to net cash provided by operating activities:	
02	Depreciation Expense	_____
03	Deferred Income Tax	_____
04	Loss (gain) on Disposal of Property and Equipment	_____
	(Increase) Decrease in:	
05	Accounts Receivable	_____
06	Inventories	_____
07	Prepaid Expenses	_____
	(Increase) Decrease in:	
08	Accounts Payable	_____
09	Accrued Expenses	_____
10	Deferred Subscription Income	_____
11	Net Cash Provided (Used) by Operating Activities	\$ _____

**INVESTING ACTIVITIES:**

12	Purchases of Property and Equipment	_____
13	Proceeds from Disposal of Property and Equipment	_____
14	Purchases of Investments	_____
15	Proceeds from Disposal of Investments	_____
16	Loans Made	_____
17	Collections on Loans	_____
18	Other _____	_____
19	Net Cash Provided (Used) by Investing Activities	\$ _____

**FINANCING ACTIVITIES:**

	New Borrowings:	
20	Long-Term	_____
21	Short-Term	_____
	Debt Reduction:	
22	Long-Term	_____
23	Short-Term	_____
24	Capital Contributions	_____
25	Dividends paid	_____
26	Net Cash Provided (Used) by Financing Activities	\$ _____
27	Net Increase (Decrease) in Cash	\$ _____
28	Cash at Beginning of Year	\$ _____
29	Cash at End of Year	\$ _____

**30 SUPPLEMENTAL DISCLOSURES:**

	Non-cash Investing and Financing Transactions:	
31	_____	\$ _____
32	_____	_____
33	Interest Paid (Net of Amounts Capitalized)	_____
34	Income Taxes Paid	_____

**INSTRUCTIONS****Page 1: COVER**

1. Enter the name of the ambulance service on the line “Reporting Ambulance Service.”
2. Print the name and title of the ambulance service’s authorized representative on the lines indicated; enter the date of signature; authorized representative must sign the report.

**Page 2: STATISTICAL SUPPORT DATA and ROUTINE OPERATING REVENUE**

Enter the ambulance service’s business name and the appropriate reporting period.

**Statistical Support Data:**

- Lines 01-02: Enter the number of billable ALS and BLS transports for each of the three categories. Subscription Service Transports should not be included with Transports Under Contract.
- Lines 03-04: Enter the total of patient loaded transport miles and waiting times for each of the transport categories.
- Line 05: List TOTAL of canceled/non-billable runs.

**Ambulance Service Routine Operating Revenue:**

- Line 06: Enter the total amount of all ALS Base Rate gross billings.
- Line 07: Enter the total amount of all BLS Base Rate gross billings.
- Line 08: Enter the total of Mileage Charge gross billings.
- Line 09: Enter the total Waiting Time gross billings.
- Line 10: Enter the total of all gross billings of Medical Supplies to patients.
- Line 11: RESERVED FOR FUTURE USE - Charges for Nurses currently are not allowed.
- Line 12: Enter the total of all Standby Time charges. (Attach a schedule showing sources.)
- Line 13: Add the totals from Line 06 through Line 12. Enter sum on Line 13.

**Salary and Wage Expense Detail:**

- Line 14: Enter the total salary amount allocated and paid to Management of the ambulance service.
- Line 15: Enter the total salary amount allocated and paid to Paramedics and IEMTs.
- Line 16: Enter the total salary amount allocated and paid to Emergency Medical Technicians (EMTs).
- Line 17: Enter the total salary amount allocated and paid to Other Personnel involved with the ambulance service. (Examples: Dispatch, Mechanics, Office)
- Line 18: Enter the total allocated amount of Payroll Taxes and Fringe Benefits paid to employees included in lines 14 through 17.

**ANNUAL AMBULANCE FINANCIAL REPORT****EXPENSE CATEGORIES FOR USE ON PAGE 3**

- Line 09 Bad Debt
- Line 10 Total Salaries, Wages, and Employee-Related Expenses
  - Salaries, Wages, Payroll Taxes, and Employee Benefits
- Line 11 Professional Services
  - Legal/Management Fees
  - Collection Fees
  - Accounting/Auditing
  - Data Processing Fees
- Line 12 Travel and Entertainment (Administrative)
  - Meals and Entertainment
  - Travel/Transportation
- Line 13 Other General and Administrative
  - Office Related (Supplies, Phone, Postage, Advertising)
  - Professional Liability Insurance
  - Dues, Subscriptions, Miscellaneous
- Line 14 Depreciation
- Line 15 Rent/Leasing
- Line 16 Building/Station
  - Utilities, Property Taxes/Insurance, Cleaning/Maintenance
- Line 17 Vehicle Expenses
  - License/Registration
  - Repairs/Maintenance
  - Insurance
- Line 18 Other Operating Expenses
  - Dispatch Contracts
  - Employee Education/Training, Uniforms, Travel/Meals
  - Maintenance Contracts
  - Minor Equipment, Non-Chargeable Ambulance Supplies
- Line 19 Cost of Medical Supplies Charged to Patients
- Line 20 Interest Expense
  - Interest on: Bank Loans/Lines of Credit
- Line 21 Subscription Service Sales Expenses
  - Sales Commissions, Printing

**INSTRUCTIONS (cont'd)****Page 3: SCHEDULE OF REVENUES AND EXPENSES**

---

**Operating Revenues:**

- Line 01: Transfer appropriate total from Page 2 as indicated.  
Line 02: Enter settlement amounts from AHCCCS transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)  
Line 03: Enter settlement amounts from Medicare transports. (DO NOT include settlement amounts resulting from a transport made under a SUBSCRIPTION SERVICE CONTRACT)  
Line 04: Enter total of ALL settlement amounts from Subscription Service Contract transports.  
Line 05: Enter total of ALL settlement amounts from Contractual transports only.  
Line 06: Enter total from any other settlement sources.  
Line 07: Enter sum of lines 02 through 06.  
Line 08: Total Operating Revenue (The amount from Line 01 minus Line 07).

**Operating Expenses:**

- Lines 09-21: Report as either actual or allocated from expenses shared with Fire or other departments.  
Line 22: Enter the total sum of lines 09 through 21.  
Line 23: Enter the difference of line 08 minus line 22.  
Line 24: Enter the gross amount of sales from Subscription Service Contracts.  
Line 25: Enter the amount of Other Operating Revenues.  
Ex: Federal, State or Local Grants, Interest Earned, Patient Finance Charges.  
Line 26: Enter the total of Local Supportive Funding.  
Line 27: List other non-operating revenues (Ex: Donations, sales of assets, fund raisers).  
Line 28: List other non-operating expenses (Ex: Civil fines or penalties, loss on sale of assets).  
Line 29: Net Income (Line 23 plus Lines 24 through 27, minus Line 28).

**Page 4: BALANCE SHEET**

---

Current audited financial statements may be submitted in lieu of this page.

**Page 5: STATEMENT OF CASH FLOWS**

---

Current audited financial statements may be submitted in lieu of this page.

Questions regarding this reporting form can be submitted to:

Arizona Department of Health Services  
Bureau of Emergency Medical Services  
Certificate of Necessity and Rates Section

1651 E. Morten, Suite 130  
Phoenix, AZ 85020  
PH: (602) 861-0809  
FAX (602) 861-9812

**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).



## ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

### R9-25-1001. Initial and Renewal Application for a Certificate of Registration (A.R.S. §§ 36-2212, 36-2232, 36-2240)

- A.** A person applying for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application form to the Department that contains:
1. The applicant's legal business or corporate name;
  2. The applicant's mailing address, physical address of the business, and business, facsimile, and emergency telephone numbers;
  3. The identifying information of the ground ambulance vehicle, including:
    - a. The make of the ground ambulance vehicle;
    - b. The ground ambulance vehicle manufacture year;
    - c. The ground ambulance vehicle identification number;
    - d. The unit number of the ground ambulance vehicle;
    - e. The ground ambulance vehicle's state license number; and
    - f. The location at which the ground ambulance vehicle will be available for inspection;
  4. The identification number of the certificate of necessity to which the ground ambulance vehicle is registered;
  5. The name and telephone number of the person to contact to arrange for inspection, if the inspection is pre-announced; and
  6. The signature of the applicant or applicant's designated representative.
- B.** Under A.R.S. § 36-2232(A)(11), the Department shall inspect each ambulance before an initial certificate of registration is issued by the Department.
- C.** Under A.R.S. § 36-2232(A)(11), the Department shall either inspect an ambulance or receive an inspection report that meets the requirements in this Article by a Department-approved inspection facility before a renewal certificate of registration is issued by the Department.
- D.** An applicant shall submit the following fees:
1. \$50 application filing fee for an initial certificate of registration;
  2. \$200 annual regulatory fee for each ground ambulance vehicle issued a certificate of registration; and
  3. \$50 application filing fee for the renewal of a certificate of registration.
- E.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

#### Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

### R9-25-1002. Minimum Standards for Ground Ambulance Vehicles (A.R.S. § 36-2202(A)(5))

An applicant for a certificate of registration or certificate holder shall ensure a ground ambulance vehicle is equipped with the following:

1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
2. A brake system that meets the requirements in A.R.S. § 28-952;
3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
4. A battery:
  - a. With no leaks, corrosion, or other visible defects; and
  - b. As measured by a voltage meter, capable of generating:
    - i. 12.6 volts at rest; and
    - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;
6. Hoses, belts, and wiring with no visible defects;
7. An electrical system capable of maintaining a positive charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
8. An exhaust pipe, muffler, and tailpipe under the ground ambulance vehicle and securely attached to the chassis;
9. A frame capable of supporting the gross vehicle weight of the ground ambulance vehicle;
10. A horn that meets the requirements in A.R.S. § 28-954(A);
11. A siren that meets the requirements in A.R.S. § 28-954(E);
12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
13. A fuel cap of a type specified by the manufacturer for each fuel tank;
14. A steering system to include:
  - a. Power-steering belts free from frays, cracks, or slippage;
  - b. Power-steering that is free from leaks;
  - c. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick; and
  - d. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
15. Front and rear shock absorbers that are free from leaks;
16. Tires on each axle that:
  - a. Are properly inflated;
  - b. Are of equal size, equal ply ratings, and equal type;
  - c. Are free of bumps, knots, or bulges;
  - d. Have no exposed ply or belting; and
  - e. Have tread groove depth equal to or more than 4/32";
17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
20. Windshield defrosting and defogging equipment;
21. Emergency warning lights that provide 360° conspicuity;
22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket with a current inspection tag;
23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;

25. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
  26. Secured interior equipment and other objects;
  27. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not in use;
  28. Functional lamps and signals, including:
    - a. Bright and dim headlamps,
    - b. Brake lamps,
    - c. Parking lamps,
    - d. Backup lamps,
    - e. Tail lamps,
    - f. Turn signal lamps,
    - g. Side marker lamps,
    - h. Hazard lamps,
    - i. Patient loading door lamps and side spot lamps,
    - j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
    - k. Patient compartment interior lamps;
  29. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors;
  30. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;
  31. Functional open door securing devices on a patient loading door;
  32. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
  33. A seat belt installed for each seat in the driver's compartment;
  34. Belts or devices installed on a stretcher to be used to secure a patient;
  35. A seat belt installed for each seat in the patient compartment;
  36. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;
  37. Windshield and windows free of obstruction;
  38. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom and sides of the windshield or that extend more than 2 inches from the top of the windshield;
  39. A windshield-washer system that applies enough cleaning solution to clear the windshield;
  40. Operable windshield wipers with a minimum of two speeds;
  41. Functional hood latch for the engine compartment;
  42. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
  43. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
  44. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
  45. Wheels that meet and are mounted according to manufacturer's specifications.
2. Wide-bore tubing, a rigid pharyngeal curved suction tip, and a flexible suction catheter in each of the following French sizes: 5, 10, and 14;
  3. One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
  4. One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator;
  5. Oxygen administration equipment including: tubing, two adult-size and two pediatric-size non-rebreather masks, and two adult-size and two pediatric-size nasal cannula;
  6. One adult-size, one child-size, and one infant-size hand-operated, disposable, self-expanding bag-valve with one of each size bag-valve mask;
  7. Two adult-size, two child-size, and two infant-size oropharyngeal airways;
  8. Two cervical immobilization devices;
  9. Two upper and two lower extremities splints;
  10. One traction splint;
  11. Two full-length spine boards;
  12. Supplies to secure a patient to a spine board;
  13. One cervical-thoracic spinal immobilization device for extrication;
  14. Two sterile burn sheets;
  15. Two triangular bandages;
  16. Two sterile multi-trauma dressings, 10" x 30" or larger;
  17. Four abdomen bandages, 5" x 7" or larger;
  18. Fifty non-sterile 4" x 4" gauze sponges;
  19. Ten non-sterile soft roller bandages, 4" or larger;
  20. Two non-sterile elastic roller bandages or self-adherent wrap bandages, 3" or larger;
  21. Four sterile occlusive dressings, 3" x 8" or larger;
  22. Two 2" or 3" adhesive tape rolls;
  23. A sterile obstetrical kit containing towels, 4" x 4" dressing, scissors, bulb suction, and clamps or tape for cord;
  24. One child-size, one adult-size, and one large adult-size sphygmomanometer;
  25. One stethoscope;
  26. One heavy duty scissors capable of cutting clothing, belts, or boots;
  27. Two blankets;
  28. Two sheets;
  29. Body substance isolation equipment, including:
    - a. Two pairs of non-sterile disposable gloves;
    - b. Two gowns;
    - c. Two masks that are at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which may be of universal size;
    - d. Two pairs of shoe coverings; and
    - e. Two sets of protective eye wear;
  30. At least three pairs of non-latex gloves; and
  31. A wheeled, multi-level stretcher that is:
    - a. Suitable for supporting a patient at each level;
    - b. At least 69 inches long and 20 inches wide;
    - c. Rated for use with a patient weighing up to or more than 350 pounds;
    - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane;
    - e. Equipped with a mattress that has a protective cover;
    - f. Equipped with at least two attached straps to secure a patient during transport; and

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1003. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))**

- A.** A ground ambulance vehicle shall contain the following operational equipment and supplies:
1. A portable and a fixed suction apparatus;

## Department of Health Services – Emergency Medical Services

- g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under R9-25-1002(36).
- B.** In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide BLS shall contain at least:
1. The minimum supply of agents required in Table 1 in R9-25-503 for an EMT-B,
  2. Two 3 mL syringes, and
  3. Two 10-12 mL syringes.
- C.** In addition to the equipment and supplies in subsection (A), a ground ambulance vehicle equipped to provide ALS shall contain at least the minimum supply of agents required in Table 1 in R9-25-503 for the highest level of service to be provided by the ambulance's crew and at least the following:
1. Four intravenous solution administration sets capable of delivering 10 drops per cc;
  2. Four intravenous solution administration sets capable of delivering 60 drops per cc;
  3. Intravenous catheters of various sizes;
  4. Venous tourniquet;
  5. One endotracheal tube in each size from 3.0 mm to 9.0 mm;
  6. One laryngoscope with blades in sizes 0-4, straight or curved or both;
  7. One adult Magill forceps;
  8. One scalpel;
  9. One portable, battery-operated cardiac monitor-defibrillator with strip chart recorder and adult and pediatric EKG electrodes and defibrillation capabilities;
  10. Electrocardiogram leads;
  11. One blood glucose testing kit;
  12. The following syringes:
    - a. Two 1 mL tuberculin,
    - b. Four 3 mL,
    - c. Four 10-12 mL,
    - d. Two 20 mL, and
    - e. Two 50-60 mL;
  13. Three 5 micron filter needles; and
  14. Assorted sizes of non-filter needles.
- D.** A ground ambulance vehicle shall be equipped to provide, and capable of providing, voice communication between:
1. The ambulance attendant and the dispatch center;
  2. The ambulance attendant and the ground ambulance service's assigned medical direction authority, if any; and
  3. The ambulance attendant in the patient compartment and the ground ambulance service's assigned medical direction authority, if any.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4).

**R9-25-1004. Minimum Staffing Requirements for Ground Ambulance Vehicles (A.R.S. §§ 36-2201(4), 36-2202(A)(5))**

When transporting a patient, a ground ambulance service shall staff a ground ambulance vehicle according to A.R.S. § 36-2202(I).

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1005. Ground Ambulance Vehicle Inspection; Major and Minor Defects (A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)**

- A.** A certificate holder shall make the ground ambulance vehicle, equipment, and supplies available for inspection at the request of the Director or the Director's authorized representative.
- B.** If inspected by the Department, a certificate holder shall allow the Director or the Director's authorized representative to ride in or operate the ground ambulance vehicle being inspected.
- C.** A certificate holder may request the Department to inspect all of the certificate holder's ground ambulance vehicles at the same date and location.
- D.** A Department-approved inspection facility may inspect a ground ambulance vehicle under A.R.S. § 36-2232(A)(11).
- E.** The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

INSPECTION ITEM	MAJOR DEFECT	MINOR DEFECT
<b>LAMPS:</b>		
Emergency warning lights	Lack of 360° of conspicuity	Cracked, broken, or missing lens Inoperative lamps
Back-up lamps		Inoperative Cracked, broken, or missing lens
Brake lamps	Both inoperative	1 inoperative
Hazard lamps		Inoperative
Head lamps	Inoperative	High beam inoperative Low beam inoperative Inoperative dimmer switch
Loading lamps		Inoperative Cracked, broken, or missing lens
Parking lamps		Inoperative
Patient Compartment interior lamps	All lamps inoperative	Inoperative individual lamps Missing lens
Side marker lamps		Inoperative Cracked, broken, or missing lens
Spot lamp in driver's compartment		Inoperative
Tail lamps	Both inoperative	1 inoperative Cracked, broken, or missing lens
Turn signal lamps		Any turn signal lamp inoperative Cracked, broken, or missing lens

MECHANICAL, STRUCTURAL, ELECTRICAL:		
Bumpers		Loose or missing bumper
Defroster		Inoperative Ventilation system openings partially blocked
Electrical system	Does not comply with R9-25-1002(6)	
Engine compartment		Inoperative hood latch Deterioration of hoses, belts, or wiring Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in compliance with R9-25-1002(4)(b)
Engine compartment wiring system		Does not comply with R9-25-1002(5)
Engine cooling system	Does not comply with R9-25-1002(3)	Leaks in system
Engine intake air cleaner		Does not comply with R9-25-1002(1)
Exhaust	Exhaust fumes in the patient or driver compartment	Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent
Frame	Cracks in frame	
Fuel system	Fuel tank not mounted according to manufacturer's specifications Fuel tank brackets cracked or broken Leaking fuel tanks or fuel lines Fuel caps missing or of a type not specified by the manufacturer	
Ground ambulance vehicle body	Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing	Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle
Heating and air conditioning systems		Unsecured hoses Does not maintain minimum temperature required in R9-25-1002(23) and 1002(17)
Horn		Inoperative
Parking brake		Inoperative
Siren	Inoperative	
Steering	Steering wheel bracing cracked Inoperative	Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick
Suspension	Broken suspension parts U-bolts loose or missing	Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets
Vehicle brakes	Inoperative	Fluid leaks
INTERIOR:		
Communication equipment	Lack of operative communication equipment	Inoperative communication equipment in the patient compartment
Edges		Presence of exposed sharp edges
Equipment	Inability to secure oxygen tanks	Inability to secure other equipment
Fire extinguisher	Absent	Not at full charge Expired inspection tag

## Department of Health Services – Emergency Medical Services

Hangers		Supports or hangers protruding more than 2" when not in use
Instrument panel		Inoperative gauges, switches, or illumination
Padding		Missing padding over exits in the patient compartment
Patient compartment	Visible blood, body fluids, or tissue	Unrepaired cuts or holes in seats Missing pieces of floor covering
Seat belts and securing belts	Absence of seat belt or inoperative seat belt in the driver's compartment More than one inoperative seat belt in the patient compartment Absence of securing belts on a stretcher	Frayed seat belt or securing belt material One inoperative seat belt in the patient compartment
Stretcher fastener	Does not comply with R9-25-1002(36)	
<b>EXTERIOR:</b>		
Patient compartment doors	Completely or partially missing window panel	Inoperative open door securing devices Cracked window panels
Marking		Missing company identification Incorrect size or location
Mirrors	Exterior rear vision or wide vision mirrors missing	Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws
Tires	Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel	Tread groove depth less than 4/32" measured in a tread groove on any tire
Wheels	Loose or missing lug nuts Broken lugs Cracked or bent rims	
Windows		Placement of nontransparent materials which obstruct view Cracked or broken
Windshield	Windshield that is obstructed Placement of nontransparent materials which obstruct view	Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield
Windshield- washer system		Does not comply with R9-25-1002(39)
Windshield wipers	Inoperative wiper on driver's side	Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger's side

**F.** If the Department determines that there is a major defect on the ground ambulance vehicle after inspection, the certificate holder shall take the ground ambulance vehicle out-of-service until the defect is corrected.

**G.** If the Department finds a minor defect on the ground ambulance vehicle after inspection, the ground ambulance vehicle may be operated to transport patients for up to 15 days until the minor defect is corrected.

1. The Department may grant an extension of time to repair the minor defect upon a written request from the certificate holder detailing the reasons for the need of an extension of time.
2. If the minor defect is not repaired within the time prescribed by the Department, and an extension has not been granted, the certificate holder shall take the ground ambulance vehicle out-of-service until the minor defect is corrected.

**H.** Within 15 days of the date of repair of the major or minor defect, the certificate holder shall submit written notice of the repair to the Department.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1006. Ground Ambulance Vehicle Identification (A.R.S. §§ 36-2212, 36-2232)**

- A.** A ground ambulance vehicle shall be marked on its sides with the certificate of registration applicant's legal business or corporate name with letters not less than 6 inches in height.
- B.** A ground ambulance vehicle marked with a level of ground ambulance service shall be equipped and staffed to provide the level of ground ambulance service identified while in service.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

# **ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS**

## **R9-25-1101. Application for Establishment of Initial General Public Rates (A.R.S. §§ 36-2232, 36-2239)**

- A.** An applicant for a certificate of necessity or a certificate holder applying for initial general public rates shall submit an application packet to the Department that includes:
1. The applicant's name;
  2. The requested general public rates;
  3. A copy of the applicant's most recent financial statements or an Ambulance Revenue and Cost Report;
  4. For a consecutive 12-month period:
    - a. A projected income statement; and
    - b. A projected cash-flow statement;
  5. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicles, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
  6. The identification of:
    - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
    - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
  7. A copy of the applicant's contract with each federal or tribal entity for ground ambulance service, if applicable;
  8. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
  9. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
  10. Any other information or documents requested by the Director to clarify or complete the application.
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

### **Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

## **R9-25-1102. Application for Adjustment of General Public Rates (A.R.S. §§ 36-2234, 36-2239)**

- A.** A certificate of necessity holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application form to the Department that includes:
1. The name of the applicant;
  2. A statement that the applicant is making the request according to A.R.S. § 36-2234(E);
  3. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
  4. The effective date of the proposed general public rate adjustment; and
  5. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct.
- B.** An applicant requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(E) shall submit an application packet to the Department that includes:
1. The name of the applicant;

2. A statement that the applicant is making the request according to A.R.S. § 36-2234(A);
  3. The reason for the general public rate adjustment request;
  4. A statement that the applicant has not applied for an adjustment to its general public rates within the last six months;
  5. The effective date of the proposed general public rate adjustment;
  6. A copy of the applicant's most recent financial statements;
  7. A copy of the Ambulance Revenue and Cost Report;
  8. For a consecutive 12-month period:
    - a. A projected income statement; and
    - b. A projected cash-flow statement;
  9. A list of all purchase agreements or lease agreements for real estate, ground ambulance vehicle, and equipment exceeding \$5,000 used in connection with the ground ambulance service, that includes the monetary amount and duration of each agreement;
  10. The identification of:
    - a. Each of the applicant's affiliations, such as a parent company or subsidiary owned or operated by the applicant; and
    - b. The methodology and calculations used in allocating costs among the applicant and government entities or profit or not for profit businesses;
  11. A copy of the applicant's contract with each federal or tribal entity for a ground ambulance service, if applicable;
  12. Other documents, exhibits, or statements that may assist the Department in setting the general public rates;
  13. An attestation signed by the applicant that the information and documents provided by the applicant are true and correct; and
  14. Any other information or documents requested by the Director to clarify or complete the application.
- C.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

### **Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

## **R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(G) and (I), 36-2239)**

- A.** Before providing interfacility transports or convalescent transports, a certificate holder shall apply to the Department for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(G).
1. For a contract rate or range of rates under A.R.S. § 36-2234(G), the certificate holder shall submit an application form to the Department that contains:
    - a. The name of the certificate holder;
    - b. A statement that the certificate holder is making the request under A.R.S. § 36-2234(G);
    - c. The contract rate or range of rates being requested; and
    - d. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates.
  2. For a contract rate or range of rates under A.R.S. § 36-2234(I), the certificate holder shall submit the information required in R9-25-1102(B)(1) and (B)(6) through (B)(14).
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(K))**

- A.** Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department for approval a copy of the contract with a cover letter that indicates the total number of pages in the contract. The contract shall:
1. Include the certificate holder's legal name and any other name listed on the certificate holder's initial application required in R9-25-902(A)(1)(a);
  2. List the contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;
  3. Comply with A.R.S. §§ 36-2201 through 36-2246 and 9 A.A.C. 25; and
  4. Not preclude use of the 9-1-1 system or a similarly designated emergency telephone number.
- B.** The Department shall approve or deny an application under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))**

- A.** A certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
1. The following information:
    - a. The number of estimated subscription service contracts and documents supporting the estimate, such as a survey of the service area;
    - b. An estimate of the number of annual subscription service transports for the service area;
    - c. The proposed subscription service rate;
    - d. An estimate of the cost of providing subscription service to the service area; and
    - e. Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate; and
  2. A copy of the proposed subscription service contract.
- B.** The Department shall approve or deny a subscription service rate under this Section according to 9 A.A.C. 25, Article 12.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1). Section heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4).

**R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)**

- A.** In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
1. Direct and indirect costs for operating the ground ambulance service within its service area;
  2. Balance sheet;
  3. Income statement;
  4. Cash flow statement;
  5. Ratio between variable and fixed costs on the financial statements;

6. Method of indirect costs allocation to specific cost-center areas;
  7. Return on equity;
  8. Reimbursable and non-reimbursable charges;
  9. Type of business entity;
  10. Monetary amount and type of debt financing;
  11. Replacement and expansion costs;
  12. Number of calls, transports, and billable miles;
  13. Costs associated with rules, inspections, and audits;
  14. Substantiated prior reported losses;
  15. Medicare and AHCCCS settlements; and
  16. Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B.** In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
1. Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding,
  2. The certificate holder's travel and entertainment expenses that do not directly relate to providing the ground ambulance service,
  3. The monetary value of any goodwill accumulated by the certificate holder,
  4. Any penalties or fines imposed on the certificate holder by a court or government agency, and
  5. Any financial contributions received by the certificate holder.
- C.** In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1) the director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.
- D.** Rate of return on gross revenue is calculated by dividing Ambulance Revenue and Cost Report Exhibit A or Exhibit B net income or loss by gross revenue.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)**

- A.** When evaluating a proposed mileage rate, the Department shall consider the following factors:
1. The cost of licensure and registration of each ground ambulance vehicle;
  2. The cost of fuel;
  3. The cost of ground ambulance vehicle maintenance;
  4. The cost of ground ambulance vehicle repair;
  5. The cost of tires;
  6. The cost of ground ambulance vehicle insurance;
  7. The cost of mechanic wages, benefits, and payroll taxes;
  8. The cost of loan interest related to the ground ambulance vehicles;
  9. The cost of the weighted allocation of overhead;
  10. The cost of ground ambulance vehicle depreciation;
  11. The cost of reserves for replacement of ground ambulance vehicles and equipment; and
  12. Mileage reimbursement as established by Medicare guidelines for ground ambulance service.
- B.** When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C.** When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment and ALS personnel.

- D. In evaluating rates, the Director shall make adjustments to a certificate holder's rates to maximize Medicare reimbursements.
- E. The Department shall determine the standby waiting rate by dividing the BLS base rate by 4.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)**

- A. A certificate holder shall assess rates and charges as follows:
  1. When calculating a rate or charge, the certificate holder shall:
    - a. Omit fractions of less than 1/2 of 1 cent; or
    - b. Increase to the next whole cent, fractions of 1/2 of 1 cent or greater.
  2. The certificate holder shall calculate the number of miles for a transport by using:
    - a. The ground ambulance vehicle's odometer reading; or
    - b. A regional map.
  3. The certificate holder shall calculate the reimbursement amount for mileage of a transport by multiplying the number of miles for the transport by the mileage rate.
  4. When transporting two or more patients in the same ground ambulance vehicle, the certificate holder shall assess each patient:
    - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
    - b. One hundred percent of:
      - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
      - ii. Waiting time assessed according to subsection (C).
  5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.
- B. When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.
- C. A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
  1. The first 15 minutes after arrival to load the patient at the point of pick-up;
  2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
  3. The first 15 minutes to unload the patient at the point of destination.
- D. When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess its own rates and charges for EMS or transport provided to the patient.
- E. When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days from the date of the determination.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))**

- A. A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department a list of the items and the proposed charges. The list shall include a non-retroactive effective date.
- B. A certificate holder shall submit to the Department a new list each time the certificate holder proposes a change in the items or the amount charged. The list shall contain the information required in subsection (A), including a non-retroactive effective date.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)**

- A. Each invoice for rates and charges shall contain the following:
  1. The patient's name;
  2. The certificate holder's name, address, and telephone number;
  3. The date of service;
  4. An itemized list of the rates and charges assessed;
  5. The total monetary amount owed the certificate holder; and
  6. The payment due date.
- B. Any subsequent invoice to the same patient for the same EMS or transport shall contain all the information in subsection (A) except the information in subsection (A)(4).
- C. Charges may be combined into one line item if the supplies are used for a specific purpose and the name of the combined item is included in the certificate holder's disposable medical supply listing provided to the Department under R9-25-1109.
- D. A certificate holder may combine rates and charges into one line item if required by a third-party payor.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R.  
1098, effective February 13, 2001 (Supp. 01-1).

**ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS****R9-25-1201. Time-frames (A.R.S. §§ 41-1072 through 41-1079)**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Department is listed in Table 1. The applicant and the Director may agree in writing to extend the overall time-frame. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Department is listed in Table 1. The administrative completeness review time-frame begins on the date that the Department receives an application form or an application packet.
  1. If the application packet is incomplete, the Department shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the written request until the date the Department receives a complete application packet from the applicant.
  2. When an application packet is complete, the Department shall send a written notice of administrative completeness.



## Department of Health Services – Emergency Medical Services

3. If the Department grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the postmark date of the notice of administrative completeness.
  1. As part of the substantive review time-frame for an application for an approval other than renewal of an ambulance registration, the Department shall conduct inspections, conduct investigations, or hold hearings required by law.
  2. If required under R9-25-403 the Department shall fix the period and terms of probation as part of the substantive review.
  3. During the substantive review time-frame, the Department may make one comprehensive written request for additional documents or information and it may make supplemental requests for additional information with the applicant's written consent.
  4. The substantive review time-frame and the overall time-frame are suspended from the postmark date of the written request for additional information or documents until the Department receives the additional information or documents.
  5. The Department shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. Title 36, Chapter 21.1 and this Chapter for the type of application submitted.
6. The Department shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 36, Chapter 21.1, and this Chapter for the type of application submitted.
- D. If an applicant fails to supply the documents or information under subsections (B)(1) and (C)(3) within the number of days specified in Table 1 from the postmark date of the written notice or comprehensive written request, the Department shall consider the application withdrawn.
- E. An applicant that does not wish an application to be considered withdrawn may request a denial in writing within the number of days specified in Table 1 from the postmark date of the written notice or comprehensive written request for documents or information under subsections (B)(1) and (C)(3).
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Department shall consider the next business day as the time-frame's last day.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).  
 Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).  
 Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

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

Type of Application	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Time to Respond to Written Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
ALS Base Hospital Certification (R9-25-208)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5)	45	15	60	30	60
Amendment of an ALS Base Hospital Certificate (R9-25-209)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5) and (6)	30	15	60	15	60
Training Program Certification (R9-25-302)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	120	30	60	90	60
Amendment of a Training Program Certificate (R9-25-303)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	90	30	60	60	60
EMT Certification (R9-25-404)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1)	120	30	90	90	270
Temporary Nonrenewable EMT-B or EMT-P Certification (R9-25-405)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (7)	120	30	90	90	60
EMT Recertification (R9-25-406)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (4)	120	30	60	90	60
Extension to File for EMT Recertification (R9-25-407)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (7)	30	15	60	15	60

## Department of Health Services – Emergency Medical Services

Downgrading of Certification (R9-25-408)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (6)	30	15	60	15	60
Initial Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	150	30	60	120	60
Renewal of an Air Ambulance Service License (R9-25-705)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	90	30	60	60	60
Transfer of an Air Ambulance Service License (R9-25-706)	A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11	150	30	60	120	60
Initial Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Renewal of a Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Initial Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240	450	30	60	420	60
Provision of ALS Services (R9-25-902)	A.R.S. §§ 36-2232, 36-2233, 36-2240	450	30	60	420	60
Transfer of a Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2236(A) and (B), 36-2240	450	30	60	420	60
Renewal of a Certificate of Necessity (R9-25-904)	A.R.S. §§ 36-2233, 36-2235, 36-2240	90	30	60	60	60
Amendment of a Certificate of Necessity (R9-25-905)	A.R.S. §§ 36-2232(A)(4), 36-2240	450	30	60	420	60
Initial Registration of a Ground Ambulance Vehicle (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Establishment of Initial General Public Rates (R9-25-1101)	A.R.S. §§ 36-2232, 36-2239	450	30	60	420	60
Adjustment of General Public Rates (R9-25-1102)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Ground Ambulance Service Contracts (R9-25-1104)	A.R.S. § 36-2232	450	30	60	420	60
Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104)	A.R.S. §§ 36-2232, 36-2234(K)	30	15	15	15	Not Applicable
Subscription Service Rate (R9-25-1105)	A.R.S. § 36-2232(A)(1)	450	30	60	420	60

**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

**Exhibit A. Recodified****Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

**Exhibit B. Recodified****Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

**ARTICLE 13. TRAUMA CENTER DESIGNATION****R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

The following definitions apply in this Article, unless otherwise specified:

1. “ACS” means the American College of Surgeons Committee on Trauma.
2. “ACS site visit” means an on-site inspection of a trauma facility conducted by ACS for the purpose of determining compliance with ACS trauma facilities criteria, or ACS trauma facilities criteria and state standards, at the Level of designation sought.
3. “Administrative completeness time period” means the number of days from the Department’s receipt of an application until the Department determines that the application contains all of the items of information required by rule to be submitted with an application.
4. “ATLS” means the ACS Advanced Trauma Life Support Course.
5. “Available” means accessible for use.
6. “Chief administrative officer” means an individual assigned to control and manage the day-to-day operations of a health care institution on behalf of the owner or the body designated by the owner to govern and manage the health care institution.
7. “CME” means continuing medical education courses for physicians.
8. “Comply with” means to satisfy the requirements of a stated provision.
9. “CT” means computed tomography.
10. “Current” means up-to-date and extending to the present time.
11. “CVP” means central venous pressure.
12. “Department” means the Arizona Department of Health Services.
13. “Designation” means a formal determination by the Department that a health care institution has the resources and capabilities necessary to provide trauma services at a particular Level and is a trauma center.
14. “EMS” means emergency medical services.
15. “Health care institution” has the same meaning as in A.R.S. § 36-401.
16. “Hospital” has the same meaning as in A.A.C. R9-10-201.
17. “ICU” means intensive care unit.
18. “In compliance with” means satisfying the requirements of a stated provision.
19. “In-house” means on the premises at the health care institution.
20. “ISS” means injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions.
21. “Major resuscitation” means a patient:
  - a. If an adult, with a confirmed blood pressure < 90 at any time or, if a child, with confirmed age-specific hypotension;
  - b. With respiratory compromise, respiratory obstruction, or intubation, if the patient is not transferred from another health care institution;
  - c. Who is transferred from another hospital and is receiving blood to maintain vital signs;
  - d. Who has a gunshot wound to the abdomen, neck, or chest;
  - e. Who has a Glasgow Coma Scale score < 8 with a mechanism attributed to trauma; or
  - f. Who is determined by an emergency physician to be a major resuscitation.
22. “Meet the ACS standards,” “meeting the ACS standards,” or “meets the ACS standards” means be operated, being operated, or is operated in compliance with each applicable criterion for verification as required by ACS for verification.
23. “Meet the state standards,” “meeting the state standards,” or “meets the state standards” means be operated, being operated, or is operated in compliance with each applicable criterion listed in Exhibit I at least as frequently or consistently as required by the minimum threshold stated for the criterion in Exhibit I or at least 95% of the time, whichever is less.
24. “On-call” means assigned to respond and, if necessary, come to a health care institution when called by health care institution personnel.
25. “Owner” means one of the following:
  - a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
  - b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
26. “Person” means:
  - a. An individual;
  - b. A business organization such as an association, cooperative, corporation, limited liability company, or partnership; or
  - c. An administrative unit of the U.S. government, state government, or a political subdivision of the state.
27. “Personnel” means an individual providing medical services, nursing services, or health-related services to a patient.
28. “PGY” means postgraduate year, a classification for residents in postgraduate training indicating the year that they are in during their post-medical-school residency program.
29. “Self-designated Level I trauma facility” means a health care institution that as of July 1, 2004, met the definition of a Level I trauma center under A.A.C. R9-22-2101(F)(1).
30. “SICU” means surgical intensive care unit.
31. “Signature” means:

- a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
  - b. An "electronic signature" as defined in A.R.S. § 44-7002.
32. "Substantive review time period" means the number of days after completion of the administrative completeness time period during which the Department determines whether an application and owner comply with all substantive criteria required by rule for issuance of an approval.
33. "Transfer agreement" means a written contract between the owners of two health care institutions in which one owner agrees to have its health care institution receive a patient from the other owner's health care institution if the patient falls within specified criteria related to diagnosis, acuity, or treatment needs.
34. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
35. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended or otherwise restricted.
36. "Verification" means formal confirmation by ACS that a health care institution has the resources and capabilities necessary to provide trauma services as a Level I, Level II, Level III, or Level IV trauma facility.
37. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
- ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level II trauma center;
3. If applying for designation as a Level III trauma center:
- a. Comply with one of the following:
    - i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
    - ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
  - b. Comply with one of the following:
    - i. Hold current verification for the health care institution as a Level III trauma facility; or
    - ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level III trauma center; and
4. If applying for designation as a Level IV trauma center:
- a. Comply with one of the following:
    - i. Hold a current and valid regular license for the health care institution to operate, issued by the Department under 9 A.A.C. 10; or
    - ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution under federal or tribal law; and
  - b. Comply with one of the following:
    - i. Hold current verification for the health care institution as a Level IV trauma facility; or
    - ii. Demonstrate, during an on-site survey of the health care institution conducted by the Department as described in R9-25-1310, that the health care institution meets the state standards for a Level IV trauma center.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

**A.** To be eligible to obtain designation for a health care institution, an owner shall:

- 1. If applying for designation as a Level I trauma center:
  - a. Comply with one of the following:
    - i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
    - ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
  - b. Comply with one of the following:
    - i. Hold current verification for the health care institution as a Level I trauma facility; or
    - ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level I trauma center;
- 2. If applying for designation as a Level II trauma center:
  - a. Comply with one of the following:
    - i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
    - ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
  - b. Comply with one of the following:
    - i. Hold current verification for the health care institution as a Level II trauma facility; or

**B.** To be eligible to retain designation for a health care institution, an owner shall:

- 1. Maintain a current and valid regular license for the health care institution to operate, if applicable; and
- 2. Comply with the trauma center responsibilities in R9-25-1313.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1303. Expired****Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

**R9-25-1304. Initial Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

**A.** An owner applying for initial designation shall submit to the Department an application including:

- 1. An application form provided by the Department containing:
  - a. The name, address, and main telephone number of the health care institution for which the owner seeks designation;
  - b. The owner's name, address, and telephone number and, if available, fax number and e-mail address;

## Department of Health Services – Emergency Medical Services

- c. The name and telephone number and, if available, fax number and e-mail address of the chief administrative officer for the health care institution for which the owner seeks designation;
  - d. The designation Level for which the owner is applying;
  - e. If the owner holds verification for the health care institution for which designation is sought, the Level of verification held and the effective and expiration dates of the verification;
  - f. The asserted basis for designation:
    - i. The owner holds verification for the health care institution;
    - ii. The owner's health care institution meets the state standards; or
    - iii. The owner is eligible for the grace period under R9-25-1303;
  - g. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the hospital or health care institution license number for the health care institution for which designation is sought;
  - h. If applying for designation as a Level I, Level II, or Level III trauma center, the name and telephone number and, if available, fax number and e-mail address of the health care institution's trauma medical director;
  - i. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
  - j. Attestation that the owner knows all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article;
  - k. Attestation that the information provided in the application, including the information in the documents attached to the application form, is accurate and complete; and
  - l. The dated signature of:
    - i. If the owner is an individual, the individual;
    - ii. If the owner is a corporation, an officer of the corporation;
    - iii. If the owner is a partnership, one of the partners;
    - iv. If the owner is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
    - v. If the owner is an association or cooperative, a member of the governing board of the association or cooperative;
    - vi. If the owner is a joint venture, one of the individuals signing the joint venture agreement;
    - vii. If the owner is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
    - viii. If the owner is a business organization type other than those described in subsections (A)(1)(i) through (vi), an individual who is a member of the business organization;
2. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, a copy of the current regular hospital or health care institution license issued by the Department for the health care institution for which designation is sought;
- 3. If applying for designation based on verification, documentation issued by ACS establishing that the owner holds current verification for the health care institution at the Level of designation sought and showing the effective and expiration dates of the verification; and
  - 4. If applying for designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, current documentation issued by ACS establishing that the owner's health care institution meets the state standards listed in Exhibit I for the Level of designation sought.
- B.** The Department shall process an application as provided in R9-25-1315.
  - C.** The Department shall approve designation if the Department determines that an owner is eligible for designation as described in R9-25-1302.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A.** The owner of a health care institution may apply for one 18-month provisional designation as a Level I, Level II, or Level III trauma center if:
  - 1. When the owner applies for provisional designation, the owner's health care institution has not produced at least 12 consecutive months of data related to trauma services provided at the health care institution; and
  - 2. The owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b).
- B.** To be eligible to obtain provisional designation for a health care institution, an owner shall:
  - 1. Comply with one of the following:
    - a. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
    - b. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
  - 2. Make the attestations described in subsection (C)(2).
- C.** An owner applying for provisional designation shall submit to the Department an application including:
  - 1. An application form that contains the information and items listed in R9-25-1304(A)(1)(a) through (A)(1)(d), (A)(1)(g) through (A)(1)(l), and (A)(2); and
  - 2. Attestation that:
    - a. The owner's health care institution has the resources and capabilities necessary to meet the state standards for the Level of designation sought and will meet the state standards for the Level of designation sought during the term of the provisional designation; and
    - b. During the term of the provisional designation, the owner will:
      - i. Ensure that the trauma center meets the state standards;
      - ii. Apply for verification for the trauma center; and
      - iii. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.
- D.** The Department shall process an application submitted under this Section as provided in R9-25-1315.

- E. The Department shall approve provisional designation if the Department determines that an owner is eligible for provisional designation as described in subsection (B).
- F. To be eligible to retain provisional designation for a health care institution, an owner shall:
  - 1. Comply with subsection (B)(1)(a) or (b);
  - 2. Comply with the trauma center responsibilities in R9-25-1313;
  - 3. Apply for verification for the trauma center; and
  - 4. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.
- G. An owner who holds provisional designation and who desires to retain designation shall, before the expiration date of the provisional designation:
  - 1. If the owner can comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for initial designation under R9-25-1304; or
  - 2. If the owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for an extension of the provisional designation under subsection (H).
- H. An owner who holds provisional designation and who will not be able to comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b) on the expiration date of the provisional designation may apply to the Department, on a form provided by the Department, for one 180-day extension of the provisional designation and shall include with the application documentation issued by ACS showing the owner's progress in obtaining an ACS site visit.
- I. The Department shall grant an extension if an owner provides documentation issued by ACS:
  - 1. Establishing that the owner has applied for verification; and
  - 2. Showing the owner's progress in obtaining an ACS site visit.
- J. The Department may:
  - 1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a provisional designation; and
  - 2. Revoke, as provided under R9-25-1312, a provisional designation.
- 3. If applying for renewal of designation based on verification, documentation issued by ACS establishing that the owner:
  - a. Holds verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation; or
  - b. Has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation.
- B. The Department shall process an application as provided in R9-25-1315.
- C. The Department shall renew designation if the Department determines that the owner is eligible to retain designation as described in R9-25-1302(B).
- D. The Department shall not renew designation based on verification or ACS's determination that a trauma center meets the state standards until the Department receives documentation that complies with subsection (A)(2)(a) or (A)(3)(a).

#### Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

#### **R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. The Department shall issue initial designation or renewal of designation:
  - 1. When based on verification, with a term beginning on the date of issuance and ending on the expiration date of the verification upon which designation is based; and
  - 2. When based on meeting the state standards or eligibility under R9-25-1303, with a term beginning on the date of issuance and ending three years later.
- B. The Department shall issue a provisional designation with a term beginning on the date of issuance and ending 18 months later and an extension of provisional designation with a term beginning on the expiration date of the provisional designation and ending 180 days later.
- C. The Department shall issue a modified designation with a term beginning on the date of issuance and ending on the expiration date of the designation issued before the application for modification of designation under R9-25-1309.
- D. If an owner submits an application for renewal of designation as described in R9-25-1306 before the expiration date of the current designation, or submits an application for extension of provisional designation as described in R9-25-1305 before the expiration date of the provisional designation, the current designation does not expire until the Department has made a final determination on the application for renewal of designation or extension of provisional designation.

#### Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

#### **R9-25-1308. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. At least 30 days before the date of a change in a trauma center's name, the owner of the trauma center shall send the Department written notice of the name change.
- B. At least 90 days before a trauma center ceases to offer trauma services, the owner of the trauma center shall send the Department written notice of the intention to cease offering trauma services and the desire to relinquish designation.

#### Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

#### **R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. At least 60 days before the expiration date of a current designation, an owner who desires to obtain renewal of designation shall submit to the Department an application including:
  - 1. An application form that contains the information listed in R9-25-1304(A)(1);
  - 2. If applying for renewal of designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, one of the following:
    - a. Documentation issued by ACS no more than 60 days before the date of application establishing that the owner's trauma center meets the state standards listed in Exhibit I for the Level of designation sought; or
    - b. Documentation issued by ACS establishing that the owner has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current designation; and

- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
  - 1. For a notice described in subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation; or
  - 2. For a notice described in subsection (B), send the owner written confirmation of the voluntary relinquishment of designation, with an effective date consistent with the written notice.
- D. An owner of a trauma center shall notify the Department in writing within three working days after:
  - 1. The trauma center's hospital or health care institution license expires or is suspended, revoked, or changed to a provisional license;
  - 2. A change in the trauma center's verification status; or
  - 3. A change in the trauma center's ability to meet the state standards or, if designation is based on verification, to meet the ACS standards, that is expected to last for more than one week.
- E. An owner of a trauma center who obtains verification for the trauma center during a term of designation based on meeting the state standards may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an initial application as provided in R9-25-1304.
- D. An owner who obtains modified designation shall, during the term of the modified designation, ensure that the owner's trauma center meets the state standards that were the subject of the owner's attestation described in subsection (A)(6).
- E. The Department may:
  - 1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a modified designation; and
  - 2. Revoke, as provided under R9-25-1312, a modified designation.
- F. An owner who holds modified designation shall, before the expiration date of the modified designation:
  - 1. If the owner desires to retain designation based on the trauma center's meeting the state standards at the Level of the modified designation, apply for renewal of designation under R9-25-1306; or
  - 2. If the owner desires to obtain designation based on verification or based on the trauma center's meeting the state standards at a Level other than the Level of the modified designation, apply for initial designation under R9-25-1304.

#### Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

#### **R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. Before issuing initial or renewal designation to an owner applying for designation as a Level IV trauma center based on meeting the state standards, the Department shall complete an announced on-site survey of the owner's health care institution that includes:
    - 1. Reviewing equipment and the physical plant;
    - 2. Interviewing personnel; and
    - 3. Reviewing:
      - a. Medical records;
      - b. Patient discharge summaries;
      - c. Patient care logs;
      - d. Personnel rosters and schedules;
      - e. Performance-improvement-related documents other than peer review documents privileged under A.R.S. §§ 36-445.01 and 36-2403, including reports prepared as required under R9-10-204(B)(2) and the supporting documentation for the reports; and
      - f. Other documents relevant to the provision of trauma services as a Level IV trauma center and that are not privileged under federal or state law.
  - B. A Department surveyor shall make a verbal report of findings to an owner upon completion of an on-site survey.
  - C. Within 30 days after completing an on-site survey, the Department shall send to an owner a written report of the Department's findings, including a list of any deficiencies identified during the on-site survey and a request for a written corrective action plan.
  - D. Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:
    - 1. A description of how the deficiency will be corrected, and
    - 2. A date of correction for the deficiency.
  - E. The Department shall accept a written corrective action plan if it:
    - 1. Describes how each identified deficiency will be corrected, and
- R9-25-1309. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**
- A. An owner of a trauma center who desires to obtain a designation that requires fewer resources and capabilities than the trauma center's current designation shall, at least 30 days before ceasing to provide trauma services consistent with the current designation, send the Department an application for modification of the trauma center's designation, including:
    - 1. The name, address, and main telephone number of the trauma center for which the owner seeks modification of designation;
    - 2. The owner's name, address, and telephone number and, if available, fax number and e-mail address;
    - 3. A list of the applicable ACS or state criteria for the current designation with which the owner no longer intends to comply;
    - 4. An explanation of the changes being made in the trauma center's resources or operations related to each criterion listed under subsection (A)(3);
    - 5. The state Level of designation requested;
    - 6. Attestation that the owner knows the state standards for the Level of designation requested and will ensure that the trauma center meets the state standards if modified designation is issued;
    - 7. Attestation that the information provided in the application is accurate and complete; and
    - 8. The dated signature of the owner, as prescribed in R9-25-1304(A)(1)(l).
  - B. The Department shall process an application as provided in R9-25-1315.
  - C. The Department shall issue a modified designation if the Department determines that, with the changes being made in the trauma center's resources and operations, the trauma center will meet the state standards for the Level of designation requested.

2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1311. Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))**

- A. If the Department determines based upon Trauma Registry data collected by the Department or receives a complaint alleging that a trauma center is not meeting the state standards or, if designation is based on verification, is not meeting the ACS standards, the Department shall conduct an investigation of the trauma center.
  1. The Department may conduct an announced or unannounced onsite survey as part of an investigation.
  2. Within 30 days after completing an investigation, the Department shall send to the owner of the trauma center investigated a written report of the Department's findings, including a list of any deficiencies identified during the investigation and a request for a written corrective action plan.
- B. Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:
  1. A description of how the deficiency will be corrected, and
  2. A date of correction for the deficiency.
- C. The Department shall accept a written corrective action plan if it:
  1. Describes how each identified deficiency will be corrected, and
  2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1312. Denial or Revocation of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. The Department may deny or revoke designation if an owner:
  1. Has provided false or misleading information to the Department;
  2. Is not eligible for designation under R9-25-1302(A) or (B) or, if applicable, R9-25-1305(B) or (F);
  3. Fails to submit to the Department all of the information requested in a written request for additional information within the time prescribed in R9-25-1315 and Table 1;
  4. Fails to submit a written corrective action plan as requested and required under R9-25-1310 or R9-25-1311;
  5. Fails to comply with a written corrective action plan accepted by the Department under R9-25-1310 or R9-25-1311;
  6. Fails to allow the Department to enter the premises of the owner's health care institution, to interview personnel, or to review documents that are not documents privileged under federal or state law; or
  7. Fails to comply with any applicable provision in A.R.S. Title 36, Chapter 21.1 or this Article.
- B. In determining whether to deny or revoke designation, the Department shall consider:
  1. The severity of each violation relative to public health and safety;

2. The number of violations;
3. The nature and circumstances of each violation;
4. Whether each violation was corrected, the manner of correction, and the duration of the violation; and
5. Whether the violations indicate a lack of commitment to having the trauma center meet the state standards or, if applicable, the ACS standards.

- C. If the Department denies or revokes designation, the Department shall send to the owner a written notice setting forth the information required under A.R.S. § 41-1092.03.

1. An owner may file a written notice of appeal with the Department within 30 days after receiving a notice of denial or revocation, as provided in A.R.S. § 41-1092.03.
2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1313. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4), (5), and (6))**

The owner of a trauma center shall ensure that:

1. The trauma center meets the state standards or, if designation is based on verification, meets the ACS standards;
2. Data related to the trauma services provided at the trauma center are submitted to the Department's Trauma Registry as required by the Department;
3. The owner and the trauma center staff comply with the applicable provisions of A.R.S. Title 36, Chapter 21.1 and this Article; and
4. The owner and the trauma center staff comply with all applicable federal and state laws relating to confidentiality of information.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**R9-25-1314. Expired****Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

**R9-25-1315. Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

- A. The application processing time periods for each type of approval granted by the Department under this Article are listed in Table 1 and may be extended through a written agreement between an owner and the Department.
- B. The Department shall, within the administrative completeness time period specified in Table 1, review each application submitted for administrative completeness.
  1. If an application is incomplete, the Department shall send to the owner a written notice listing each deficiency and the information or items needed to complete the application.
  2. If an owner fails to submit to the Department all of the information or items listed in a notice of deficiencies within the time period specified in Table 1, the Department shall consider the application withdrawn.
- C. After determining that an application is administratively complete, the Department shall review the application for substantive compliance with the requirements for approval.
  1. The Department shall complete its substantive review of each application, and send an owner written notice of



## Department of Health Services – Emergency Medical Services

- approval or denial, within the substantive review time period specified in Table 1.
2. As part of the substantive review for an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, the Department shall conduct an announced onsite survey of the health care institution or trauma center as described in R9-25-1310.
  3. An owner applying for renewal of designation who submits documentation of the owner's having applied for verification as permitted under R9-25-1306(A)(2)(b) or (A)(3)(b) shall submit to the Department during the substantive review time period documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).
  4. During the substantive review time period, the Department may make one written request for additional information, listing the information or items needed to determine whether to approve the application, including, for an owner applying for renewal described in subsection (C)(3), a request for documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).
  5. For an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, a written request for additional information may include a request for a corrective action plan to correct any deficiencies identified during an onsite survey of the health care institution or trauma center.
  6. If an owner fails to submit to the Department all of the information or items listed in a written request for additional information, including, if applicable, a corrective action plan, within the time period specified in Table 1, the Department shall deny the application.
- D.** In applying this Section, the Department shall:
1. In calculating an owner's time to respond, begin on the postmark date of a notice of deficiencies or written request for additional information and end on the date that the Department receives all of the information or documents requested in the notice of deficiencies or written request for additional information; and
  2. In calculating the Department's time periods, not include any time during which the Department is waiting for an owner to submit information or documents to the Department as requested by the Department in a notice of deficiencies or written request for additional information.
- E.** If the Department denies an application, the Department shall send to the owner a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.
1. An owner may file a written notice of appeal with the Department within 30 days after receiving the notice of denial, as provided in A.R.S. § 41-1092.03.
  2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**Table 1. Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

Type of Approval	Department's Administrative Completeness Time Period	Owner's Time to Respond to Notice of Deficiencies	Department's Substantive Review Time Period	Owner's Time to Respond to Written Request for Additional Information
Initial Designation (R9-25-1304)	30	30	90	60
Provisional Designation (R9-25-1305)	30	30	90	60
Extension of Provisional Designation (R9-25-1305)	15	30	15	30
Renewal of Designation (R9-25-1306)	30	30	90	120
Modification of Designation (R9-25-1309)	30	30	90	60

**Historical Note**

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

**Exhibit I. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

E = Essential and required

Trauma Facilities Criteria	Levels			
	I	II	III	IV

<b>A. Institutional Organization</b>				
1. Trauma program	E	E	E	-
2. Trauma service	E	E	E	-
3. Trauma team	E	E	E	E
4. Trauma program medical director <sup>1</sup>	E	E	E	-
5. Trauma multidisciplinary committee	E	E	E	-
6. Trauma coordinator/trauma program manager <sup>2</sup>	E	E	E	E
<b>B. Hospital Departments/Divisions/Sections</b>				
1. Surgery	E	E	E	-
2. Neurological surgery	E	E	-	-
a. Neurosurgical trauma liaison	E	E	-	-
3. Orthopaedic surgery	E	E	E	-
a. Orthopaedic trauma liaison	E	E	E	-
4. Emergency medicine	E	E	E	-
a. Emergency medicine liaison <sup>3</sup>	E	E	E	-
5. Anesthesia	E	E	E	-
<b>C. Clinical Capabilities</b>				
1. Published on-call schedule for each listed specialty required in (C)(2) and (3)	E	E	E	-
2. Specialty immediately available 24 hours/day				
a. General surgery <sup>4</sup>	E	E	E	-
i. Published back-up schedule	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	-	-
b. Anesthesia <sup>5</sup>	E	E	E	-
c. Emergency medicine <sup>6</sup>	E	E	E	-
3. On-call and promptly available 24 hours/day <sup>7</sup>				
a. Cardiac surgery <sup>8</sup>	E	-	-	-
b. Hand surgery	E	E	-	-
c. Microvascular/replant surgery	E	-	-	-
d. Neurologic surgery	E	E	-	-
i. Dedicated to one hospital or back-up call	E	E	-	-
e. Obstetrics/gynecologic surgery	E	-	-	-
f. Ophthalmic surgery	E	E	-	-
g. Oral/maxillofacial surgery <sup>9</sup>	E	E	-	-
h. Orthopaedic surgery	E	E	E	-
i. Dedicated to one hospital or back-up call	E	E	-	-
j. Plastic surgery	E	E	-	-
k. Critical care medicine	E	E	-	-
l. Radiology	E	E	E	-
m. Thoracic surgery	E	E	-	-
<b>D. Clinical Qualifications</b>				
1. General/Trauma Surgeon				
a. Board certification <sup>10</sup>	E	E	E	-
b. 16 hours CME/year <sup>11</sup>	E	E	-	-
c. ATLS certification <sup>12</sup>	E	E	E	E

## Department of Health Services – Emergency Medical Services

d. Multidisciplinary peer review committee attendance > 50% <sup>13</sup>	E	E	E	-
2. Emergency Medicine <sup>3</sup>				
a. Board certification <sup>10</sup>	E	E	-	-
b. Trauma education – 16 hours CME/year <sup>11</sup>	E	E	-	-
c. ATLS certification <sup>12</sup>	E	E	E	E
d. Multidisciplinary peer review committee attendance > 50% <sup>13</sup>	E	E	E	-
3. Neurosurgery				
a. Board certification	E	E	-	-
b. 16 hours CME/year <sup>11</sup>	E	E	-	-
c. Multidisciplinary peer review committee attendance > 50% <sup>13</sup>	E	E	E	-
4. Orthopaedic Surgery				
a. Board certification	E	E	-	-
b. 16 hours CME/year in skeletal trauma <sup>11</sup>	E	E	-	-
c. Multidisciplinary peer review committee attendance > 50% <sup>13</sup>	E	E	E	-
<b>E. Facilities/Resources/Capabilities</b>				
1. Volume Performance <sup>14</sup>	E	-	-	-
2. Presence of surgeon at resuscitation (immediately available) <sup>15</sup>	E	E	-	-
3. Presence of surgeon at resuscitation (promptly available) <sup>16</sup>	-	-	E	-
4. Presence of surgeon at operative procedures	E	E	E	E
5. Emergency Department				
a. Personnel				
i. Designated physician director	E	E	E	-
b. Resuscitation Equipment for Patients of All Ages				
i. Airway control and ventilation equipment	E	E	E	E
ii. Pulse oximetry	E	E	E	E
iii. Suction devices	E	E	E	E
iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E
v. Internal paddles	E	E	E	-
vi. CVP monitoring equipment	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E
ix. Sterile Surgical Sets for				
(1) Airway control/cricothyrotomy	E	E	E	E
(2) Thoracostomy	E	E	E	E
(3) Venous cutdown	E	E	E	E
(4) Central line insertion	E	E	E	-
(5) Thoracotomy	E	E	E	-
(6) Peritoneal lavage	E	E	E	-
x. Arterial catheters	E	E	-	-
xi. Drugs necessary for emergency care	E	E	E	E
xii. X-ray availability 24 hours/day	E	E	E	-
xiii. Broselow tape	E	E	E	E
xiv. Thermal Control Equipment				

(1) For patient	E	E	E	E
(2) For fluids and blood	E	E	E	E
xv. Rapid infuser system	E	E	E	E
xvi. Qualitative end-tidal CO <sub>2</sub> determination	E	E	E	E
c. Communication with EMS vehicles	E	E	E	E
d. Capability to resuscitate, stabilize, and transport pediatric patients <sup>17</sup>	E	E	E	E
6. Operating Room				
a. Immediately available 24 hours/day	E	E	-	-
b. Personnel				
i. In-house 24 hours/day <sup>18</sup>	E	-	-	-
ii. Available 24 hours/day <sup>19</sup>	-	E	E	-
c. Age-Specific Equipment				
i. Cardiopulmonary bypass	E	-	-	-
ii. Operating microscope	E	-	-	-
d. Thermal Control Equipment				
i. For patient	E	E	E	E
ii. For fluids and blood	E	E	E	E
e. X-ray capability including C-arm image intensifier	E	E	E	-
f. Endoscopes, bronchoscope	E	E	E	-
g. Craniotomy instruments	E	E	-	-
h. Equipment for long bone and pelvic fixation	E	E	E	-
i. Rapid infuser system	E	E	E	E
7. Postanesthetic Recovery Room (SICU is acceptable)				
a. Registered nurses available 24 hours/day	E	E	E	-
b. Equipment for monitoring and resuscitation	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	-	-
i. Pulse oximetry	E	E	E	E
ii. Thermal control	E	E	E	E
8. Intensive or Critical Care Unit for Injured Patients				
a. Registered nurses with trauma training	E	E	E	-
b. Designated surgical director or surgical co-director	E	E	E	-
c. Surgical ICU service physician in-house 24 hours/day <sup>20</sup>	E	-	-	-
d. Surgically directed and staffed ICU service <sup>20</sup>	E	E	-	-
e. Equipment for monitoring and resuscitation	E	E	E	-
f. Intracranial pressure monitoring equipment	E	E	-	-
g. Pulmonary artery monitoring equipment	E	E	E	-
9. Respiratory Therapy Services				
a. Available in-house 24 hours/day	E	E	-	-
b. On-call 24 hours/day	-	-	E	-
10. Radiological Services (Available 24 hours/day)				
a. In-house radiology technologist	E	E	-	-
b. Angiography	E	E	-	-
c. Sonography	E	E	E	-
d. Computed tomography	E	E	E	-

## Department of Health Services – Emergency Medical Services

i. In-house CT technician	E	E	-	-
e. Magnetic resonance imaging	E	-	-	-
11. Clinical Laboratory Service (Available 24 hours/day)				
a. Standard analyses of blood, urine, and other body fluids, including microsampling when appropriate	E	E	E	E
b. Blood typing and cross-matching	E	E	E	-
c. Coagulation studies	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E
f. Microbiology	E	E	E	-
12. Acute Hemodialysis				
a. In-house	E	-	-	-
b. Transfer agreement	-	E	E	E
13. Burn Care—Organized				
a. In-house or transfer agreement with burn center	E	E	E	E
14. Acute Spinal Cord Management				
a. In-house or transfer agreement with regional acute spinal cord injury rehabilitation center	E	E	E	E
<b>F. Rehabilitation Services</b>				
1. Transfer agreement to an approved rehabilitation facility	E	E	E	E
2. Physical therapy	E	E	E	-
3. Occupational therapy	E	E	-	-
4. Speech therapy	E	E	-	-
5. Social Services	E	E	E	-
<b>G. Performance Improvement</b>				
1. Performance improvement programs	E	E	E	E
2. Trauma Registry				
a. In-house	E	E	E	E
b. Participation in state, local, or regional registry	E	E	E	E
3. Audit of all trauma deaths	E	E	E	E
4. Morbidity and mortality review	E	E	E	E
5. Trauma conference – multidisciplinary	E	E	E	-
6. Medical nursing audit	E	E	E	E
7. Review of prehospital trauma care	E	E	E	-
8. Review of times and reasons for trauma-related bypass	E	E	-	-
9. Review of times and reasons for transfer of injured patients	E	E	E	E
10. Performance improvement personnel dedicated to care of injured patients	E	E	-	-
<b>H. Continuing Education/Outreach</b>				
1. Outreach activities <sup>21</sup>	E	E	-	-
2. Residency program <sup>22</sup>	E	-	-	-
3. ATLS provide/participate <sup>23</sup>	E	-	-	-
4. Programs provided by hospital for:				
a. Staff/community physicians (CME)	E	E	E <sup>24</sup>	-
b. Nurses	E	E	E	-

c. Allied health personnel	E	E	E	-
d. Prehospital personnel provision/participation	E	E	E	-
<b>I. Prevention</b>				
1. Prevention program <sup>25</sup>	E	E	-	-
2. Collaboration with existing national, regional, state, and community programs <sup>26</sup>	E	E	E	E
<b>J. Research</b>				
1. Research program <sup>27</sup>	E	-	-	-
2. Trauma registry performance improvement activities	E	E	E	-
3. Identifiable Institutional Review Board process	E	-	-	-
4. Extramural education presentations	E <sup>28</sup>	-	-	-
<b>K. Additional Requirements for Trauma Centers Represented as Caring for Pediatric Trauma Patients<sup>29</sup></b>				
1. Trauma surgeons credentialed for pediatric trauma care	E	E	-	-
2. Pediatric emergency department area	E	E	-	-
3. Pediatric resuscitation equipment in all patient care areas	E	E	-	-
4. Microsampling	E	E	E	-
5. Pediatric-specific performance improvement program	E	E	E	E
6. Pediatric intensive care unit	E <sup>30</sup>	E <sup>31</sup>	-	-

<sup>1</sup> An individual may not serve as trauma medical director for more than one trauma center at the same time.

<sup>2</sup> For a Level I trauma center, this shall be a full-time position.

<sup>3</sup> This does not apply if emergency medicine physicians do not participate in the care of a hospital's trauma patients.

<sup>4</sup> For this criterion, "immediately available" means that:

1. For a Level I trauma center, a PGY 4 or 5 surgery resident or a trauma surgeon is on the hospital premises at all times; and
2. For all major resuscitations in a Level I, II, or III trauma center:
  - a. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and
  - b. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department:
    - i. For a Level I or II trauma center, no later than 15 minutes after patient arrival; or
    - ii. For a Level III trauma center, no later than 30 minutes after patient arrival.

The minimum threshold for compliance with #2 is 80%.

A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

<sup>5</sup> For this criterion, "immediately available" means that:

1. For a Level I trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is on the hospital premises at all times;
2. For a Level II trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 15 minutes after patient arrival;
3. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 30 minutes after patient arrival; and
4. For a Level I, II, or III trauma center, an anesthesiologist is present for all surgeries.

<sup>6</sup> For this criterion, "immediately available" means that an emergency medicine physician is physically present in the emergency department at all times. However, if emergency medicine physicians do not participate in the care of a hospital's trauma patients, an emergency medicine physician is not required to be immediately available 24 hours per day.

<sup>7</sup> For the criteria in (C)(3)(a)-(l), "promptly available" means that:

1. A physician specialist is present in the emergency department no later than 45 minutes after notification, based on patient need; or
2. For hand surgery and microvascular/replant surgery, the owner has transfer agreements to ensure that a patient in need of hand surgery or microvascular/replant surgery can be expeditiously transferred to a health care institution that has a hand surgeon or microvascular/replant surgeon on the premises.

<sup>8</sup> This criterion is satisfied by a physician authorized by the hospital to perform cardiothoracic surgery.

<sup>9</sup> This criterion is satisfied by a dentist or physician authorized by the hospital to perform oral and maxillofacial surgery. If a physician, the individual shall be a plastic surgeon or an otolaryngologist.

<sup>10</sup> In a Level I or II trauma center, a non-board-certified physician may be included in the trauma service if the physician:

1. If a surgeon, is in the examination process by the American Board of Surgery;
2. If the trauma medical director, is a Fellow of ACS;
3. Unless the trauma medical director, complies with the following:
  - a. Has a letter written by the trauma medical director demonstrating that the health care institution's trauma program has a critical need for the physician because of the physician's individual experience or the limited physician resources available in the physician's specialty;
  - b. Has successfully completed an accredited residency training program in the physician's specialty, as certified by a letter from the director of the residency training program;
  - c. Has current ATLS certification as a provider or instructor, as established by documentation;
  - d. Has completed 48 hours of trauma CME within the past three years, as established by documentation;
  - e. Has attended at least 50% of the trauma quality assurance and educational meetings, as established by documentation;
  - f. Has been a member or attended local, regional, and national trauma organization meetings within the past three years, as established by documentation;
  - g. Has a list of patients treated over the past year with accompanying ISS and outcome for each;
  - h. Has a quality assurance assessment by the trauma medical director showing that the morbidity and mortality results for the physician's patients compare favorably with the morbidity and mortality results for comparable patients treated by other members of the trauma service; and
  - i. Has full and unrestricted privileges in the physician's specialty and in the department with which the physician is affiliated; or
4. Complies with the following:
  - a. Has provided exceptional care of trauma patients, as established by documentation such as a quality assurance assessment by the trauma medical director;
  - b. Has numerous publications, including publication of excellent research;
  - c. Has made numerous presentations; and
  - d. Has provided excellent teaching, as established by documentation.

In a Level III trauma center, only the trauma medical director is required to be board-certified.

<sup>11</sup> This criterion applies only to the trauma medical director, the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison. This criterion is satisfied by an average of 16 hours annually, or 48 hours over three years, of verifiable external trauma-related CME. External CME includes programs given by visiting professors or invited speakers and teaching an ATLS course.

<sup>12</sup> Among the trauma surgeons, only the trauma medical director is required to have current ATLS certification. The other trauma surgeons are required to have held ATLS certification at one time. Among the emergency medicine physicians, only non-board-certified physicians are required to have current ATLS certification. The other emergency medicine physicians are required to have held ATLS certification at one time.

<sup>13</sup> Among the trauma surgeons, 50% attendance is required for each member of the trauma surgical core group. In the other specialty areas, 50% attendance is required only for the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison.

<sup>14</sup> Except for Level I trauma centers that care only for pediatric patients, each Level I trauma center shall satisfy one of the following volume performance standards:

1. 1200 trauma admissions per year,
2. 240 admissions with ISS > 15 per year, or
3. An average of 35 patients with ISS > 15 for the trauma panel surgeons per year.

Burn patients may be included in annual trauma admissions if the trauma service, not a separate burn service, is responsible for burn care in the trauma center.

<sup>15</sup> For this criterion, "immediately available" means that for all major resuscitations in a Level I or II trauma center:

1. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient

arrival; and

2. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 15 minutes after patient arrival.

The minimum threshold for compliance with this criterion is 80%.

A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

<sup>16</sup> For this criterion, “promptly available” means that for all major resuscitations in a Level III trauma center:

1. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and
2. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 30 minutes after patient arrival.

The minimum threshold for compliance with this criterion is 80%.

A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

<sup>17</sup> A trauma center that does not admit pediatric patients shall be capable of resuscitating, stabilizing, and transporting pediatric trauma patients.

<sup>18</sup> A Level I trauma center shall have a complete operating room team in the hospital at all times, so that an injured patient who requires operative care can receive it in the most expeditious manner. The members of the operating room team shall be assigned to the operating room as their primary function; they cannot also be dedicated to other functions within the institution.

<sup>19</sup> A Level II trauma center shall have a complete operating room team available when needed. The need to have an in-house operating room team depends on a number of things, including the patient population served, the ability to share responsibility for operating room coverage with other hospital staff, prehospital communication, and the size of the community served by the trauma center. If an out-of-house operating room team is used, then this aspect of care shall be monitored by the performance improvement program.

<sup>20</sup> This requirement may be satisfied by a physician authorized by the hospital to admit patients into the intensive care unit as the attending physician or to perform critical care procedures.

<sup>21</sup> This requirement is met through having an independent outreach program or participating in a collaborative outreach program. “Collaborative outreach program” means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals educate the general public or current or prospective physicians, nurses, prehospital providers, or allied health professionals regarding injury prevention, trauma triage, interfacility transfer of trauma patients, or trauma care.

<sup>22</sup> A Level I trauma center shall have a functional and documented teaching commitment. This requirement may be met through:

1. A trauma fellowship program; or
2. Active participation with one of the following types of residency programs in emergency medicine, general surgery, orthopaedic surgery, or neurosurgery:
  - a. An independent residency program;
  - b. A regional residency rotation program; or
  - c. A collaborative residency program that includes multiple hospitals, with each non-sponsor participating hospital hosting at least one rotation.

<sup>23</sup> This requirement is met through participating in the provision of ATLS courses and having ATLS instructors on staff.

<sup>24</sup> When a Level III trauma center is in an area that contains a Level I or Level II trauma center, this is not required.

<sup>25</sup> This requirement is met through having an independent prevention program or participating in a collaborative prevention program. “Collaborative prevention program” means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating health care institutions promote injury prevention through primary, secondary, or tertiary prevention strategies. An independent or collaborative prevention program shall include:

1. Conducting injury control studies,
2. Monitoring the progress and effect of the prevention program,
3. Providing information resources for the public, and



4. Each participating hospital's designating a prevention coordinator who serves as the hospital's spokesperson for prevention and injury control activities.

<sup>26</sup> This requirement is met through participating in a prevention program organized at the national, regional, state, or local community level.

<sup>27</sup> This requirement is met through having an independent research program or participating in a collaborative research program. "Collaborative research program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals systematically investigate issues related to trauma and trauma care.

Injury control studies are considered to be research program activities if they have a stated focused hypothesis or research question.

<sup>28</sup> The trauma program shall provide at least 12 educational presentations every three years outside the academically affiliated institutions of the trauma center.

<sup>29</sup> A trauma center is required to comply with the requirements of (K)(1) through (6), in addition to the requirements in (A) through (J), if the trauma center is represented as caring for pediatric trauma patients. "Represented as caring for pediatric trauma patients" means that a trauma center's availability or capability to care for pediatric trauma patients is advertised to the general public, health care providers, or emergency medical services providers through print media, broadcast media, the Internet, or other means such as the EMS system, administered by the Department.

<sup>30</sup> The trauma center shall have a PICU available on-site.

<sup>31</sup> This requirement may be satisfied by a transfer agreement.

#### Historical Note

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

# ARTICLE 14. TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE

## R9-25-1401. Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

The following definitions apply in this Article, unless otherwise specified:

1. "Aggregate trauma data" means a collection of data from the trauma registry that is compiled so that it is not possible to identify a particular trauma patient, trauma patient's family, health care provider, or health care institution.
2. "AIS" means abbreviated injury scale, an anatomic severity scoring system established in Association for the Advancement of Automotive Medicine Committee on Injury Scaling, *Abbreviated Injury Scale (AIS) 2005* (2005), incorporated by reference, including no future editions or amendments, and available from Association for the Advancement of Automotive Medicine, P.O. Box 4176, Barrington, IL 60011-4176, and [www.carcrash.org](http://www.carcrash.org).
3. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. 36-2201.
4. "Case" means a patient who meets R9-25-1402(A)(1), (2), or (3).
5. "Category" means a group of related codes within the ICD-9-CM, identified by the first three digits of each code number within the group, and including all code numbers that share the same first three digits.
6. "Data element" means a categorized piece of information.
7. "Data set" means a collection of data elements that includes, for each case, data that complies with Table 1.
8. "Department" means the Arizona Department of Health Services.
9. "ED" means emergency department, an organized area of a hospital that provides unscheduled emergency services, as defined in A.A.C. R9-10-201, 24 hours per day, seven days per week, to individuals who present for immediate medical attention.
10. "EMS" has the same meaning as "emergency medical services" in A.R.S. § 36-2201.
11. "EMS provider" has the same meaning as "emergency medical services provider" in A.R.S. § 36-2201.
12. "GCS" means Glasgow Coma Scale, a scoring system that defines eye, motor, and verbal responses in the patient with injury.
13. "Health care institution" has the same meaning as in A.R.S. § 36-401.
14. "Health care provider" means a caregiver involved in the delivery of trauma services to a patient, whether in a pre-hospital setting, in a hospital setting, or during rehabilitation.
15. "Hospital" has the same meaning as in A.A.C. R9-10-201.
16. "ICD-9-CM" has the same meaning as in A.A.C. R9-4-101.
17. "ICD-9-CM E-code" means the external cause of injury as coded according to the ICD-9-CM.
18. "ICD-9-CM N-code" means the nature of injury as coded according to the ICD-9-CM.
19. "ICD-9-CM Procedure Code" means the procedure performed on a patient as coded according to the ICD-9-CM.
20. "Injury" means the result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to mechanical, thermal,

electrical, or chemical energy or from the absence of such essentials as heat or oxygen.

21. "ISS" has the same meaning as in R9-25-1301.
22. "Owner" has the same meaning as in R9-25-1301.
23. "Patient" means an individual who is sick, injured, or dead and who requires medical monitoring, medical treatment, or transport.
24. "Scene" means a location, other than a health care institution, from which a patient is transported.
25. "Submitting health care institution" means a health care institution that submits data to the trauma registry as provided in R9-25-1402.
26. "Trauma center" means a health care institution that meets the definition of "trauma center" in A.R.S. § 36-2201 or the definition of "trauma center" in A.R.S. § 36-2225.
27. "Trauma registry" has the same meaning as in A.R.S. § 36-2201.
28. "Trauma team" means a group of health care providers organized to provide care to trauma patients.
29. "Trauma team activation" means notification of trauma team members in response to triage information received concerning a patient with injury or suspected injury.
30. "Trauma triage protocol" means a "triage protocol," as defined in R9-25-101, specifically designed for use with patients with injury.

### Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

## R9-25-1402. Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

A. As required under A.R.S. § 36-2221 and R9-25-1313, an owner of a trauma center shall ensure that the data set identified in Table 1 is submitted to the Department, as prescribed in subsection (B), for each patient who meets one or more of the following criteria:

1. A patient with injury or suspected injury who is triaged from a scene to a trauma center or ED based upon the responding EMS provider's trauma triage protocol;
2. A patient with injury or suspected injury for whom a trauma team activation occurs; or
3. A patient with injury who is admitted as a result of the injury or who dies as a result of the injury, who has an ICD-9-CM N-code within categories 800 through 959, and who does not only have:
  - a. Late effects of injury or another external cause, as demonstrated by an ICD-9-CM N-code within categories 905 through 909;
  - b. A superficial injury or contusion, as demonstrated by an ICD-9-CM N-code within categories 910 through 924;
  - c. Effects of a foreign body entering through an orifice, as demonstrated by an ICD-9-CM N-code within categories 930 through 939;
  - d. An isolated femoral neck fracture from a same-level fall, as demonstrated by:
    - i. An ICD-9-CM N-code within category 820; and
    - ii. An ICD-9-CM E-code within category E885 or E886;
  - e. An isolated distal extremity fracture from a same-level fall, as demonstrated by:

## Department of Health Services – Emergency Medical Services

- i. An ICD-9-CM N-code within categories 813 through 817 or within categories 823 through 826; and
  - ii. An ICD-9-CM E-code within category E885 or E886;
  - f. An isolated burn, as demonstrated by an ICD-9-CM N-code within categories 940 through 949.
- B.** An owner of a trauma center shall submit the data required under subsection (A) to the Department:
- 1. On a quarterly basis according to the following schedule:
    - a. For cases identified between January 1 and March 31, so that it is received by the Department by July 1 of the same calendar year;
    - b. For cases identified between April 1 and June 30, so that it is received by the Department by October 1 of the same calendar year;
    - c. For cases identified between July 1 and September 30, so that it is received by the Department by January 2 of the following calendar year; and
    - d. For cases identified between October 1 and December 31, so that it is received by the Department by April 1 of the following calendar year;
  - 2. Through an electronic reporting system authorized by the Department;
  - 3. In a format authorized by the Department; and
  - 4. Along with the following information:
    - a. The name and physical address of the trauma center;
    - b. The date the trauma data is being submitted to the Department;
    - c. The total number of cases for whom trauma data is being submitted;
    - d. The quarter and year for which trauma data is being submitted;
    - e. The range of ED or hospital arrival dates for the cases for whom trauma data is being submitted;
- f. The name, title, phone number, fax number, and e-mail address of the trauma center's point of contact for the trauma data; and
  - g. Any special instructions or comments to the Department from the trauma center's point of contact.
- C.** An ALS base hospital certificate holder that chooses to submit trauma data to the Department, as provided in A.R.S. § 36-2221, shall comply with the data submission requirements in this Section for an owner of a trauma center.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

**Table 1. Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**

**KEY:**

Required for TC Levels I, II, and III = An owner of a hospital designated as a Level I, Level II, or Level III trauma center under Article 13 of this Chapter shall include these data elements in the data submission required under R9-25-1402.

Required for TC Level IV, Non-Designated TC, and ALS Base Hospital = An owner of a health care institution designated as a Level IV trauma center under Article 13 of this Chapter; an owner of a trauma center, as defined in A.R.S. § 36-2201, that is not designated as a trauma center under Article 13 of this Chapter; or an ALS base hospital certificate holder that submits trauma data as provided under A.R.S. § 36-2221 shall include these data elements in the data submission required under R9-25-1402.

\* = Only required for hospitals designated as Level I trauma centers under Article 13 of this Chapter.

Field Name/Data Element Description	Required for TC Levels I, II, and III	Required for TC Level IV, Non-Designated TC, and ALS Base Hospital
<b>DEMOGRAPHIC DATA ELEMENTS</b>		
Reporting Facility Site ID	X	X
Registration Number	X	X
Medical Record Number	X	X
Hospital Admission Date	X	X
Admission Status	X	X
Patient Last Name	X	X
Patient First Name	X	X
Patient Middle Initial	X	X
Social Security Number	X	X
Date of Birth	X	X
Age	X	X
Units of Age	X	X
Gender	X	X
Race	X	X
Ethnicity	X	X
Zip Code of Residence	X	
City of Residence	X	
County of Residence	X	
State of Residence	X	X

Country of Residence	X	
Alternate Home Residence	X	
Co-Morbid Conditions (Pre-Existing)	X	
<b>INJURY DATA ELEMENTS</b>		
Injury Date	X	X
Injury Time	X	X
Actual versus Estimated Injury Time	X	
Injury Location ICD-9-CM E-code (E849)	X	X
Street Location of Injury	X	
Zip Code of Injury	X	X
City of Injury	X	X
County of Injury	X	
State of Injury	X	
Primary ICD-9-CM E-code Injury Descriptor	X	X
Additional ICD-9-CM E-code Injury Descriptor	X	
Trauma Type	X	
Work-Related	X	
Patient Occupational Industry	X	
Patient Occupation	X	
Patient Position in Vehicle	X	
Protective Devices	X	X
Child Specific Restraint	X	
Airbag Deployment	X	
Safety Equipment Issues	X	
<b>PREHOSPITAL TRANSPORT DATA ELEMENTS</b>		
EMS Provider Type	X	
Transport Mode (Into Reporting Facility)	X	X
Other Transport Modes	X	
Transport Agency	X	
Run Sheet Available?	X	
Run Sheet Date	X	
Transported From	X	
Date EMS Provider Notified	X	
Time EMS Provider Notified	X	
Date EMS Provider Left for Scene	X	
Time EMS Provider Left for Scene	X	
Date EMS Provider Arrived at Scene	X	
Time EMS Provider Arrived at Scene	X	
Date of EMS Patient Contact	X	
Time of EMS Patient Contact	X	
Date EMS Provider Departed Scene	X	
Time EMS Provider Departed Scene	X	
Date of Arrival at Destination	X	
Time of Arrival at Destination	X	
EMS Destination	X	
Total EMS Response Time (Minutes)	X	
Total EMS Scene Time (Minutes)	X	
Transport Time – Scene to Destination (Minutes)	X	
Total EMS Time (Minutes)	X	
System Access	X	
Triage Criteria	X	X

## Department of Health Services – Emergency Medical Services

Date of Measurement of Vital Signs	X	
Time of Measurement of Vital Signs	X	
Initial Field Pulse Rate	X	
Initial Field Respiratory Rate	X	
Initial Field Oxygen Saturation	X	
Field Airway Management Details	X	
Field Intubation Status	X	
Field Paralytic Agent in Effect	X	
Initial Field Systolic Blood Pressure	X	
Initial Field GCS – Eye Opening	X	
Initial Field GCS – Verbal Response	X	
Initial Field GCS – Motor Response	X	
Initial Field GCS – Total	X	
Field Revised Trauma Score	X	
<b>REFERRING/TRANSFER HOSPITAL DATA ELEMENTS</b>		
Interfacility Transfer	X	
Date of Arrival at First Referring Hospital	X	
Time of Arrival at First Referring Hospital	X	
Date of Transfer from First Referring Hospital	X	
Time of Transfer from First Referring Hospital	X	
Transferring Facility (First Referring)	X	
Length of Stay in First Referring Hospital (Hours)	X	
Destination Facility	X	
Date of Arrival at Second Referring Hospital	X	
Time of Arrival at Second Referring Hospital	X	
Date of Transfer from Second Referring Hospital	X	
Time of Transfer from Second Referring Hospital	X	
Transferring Facility (Second Referring)	X	
Length of Stay in Second Referring Hospital (Hours)	X	
Destination Facility	X	
Vital Signs Designation (If First or Second Referring)	X	
Initial Respiratory Rate in Referring Facility	X	
Initial Systolic Blood Pressure in Referring Facility	X	
Initial GCS Total in Referring Facility	X	
Initial Revised Trauma Score in Referring Facility	X	
<b>ED/TRAUMA DATA ELEMENTS</b>		
ED/Hospital Arrival Date	X	X
ED/Hospital Arrival Time	X	X
ED Exit Date	X	X
ED Exit Time	X	X
Length of Stay in ED (Hours)	X	X
Complete Trauma Team Arrival Time	X	
ED Discharge Disposition	X	X
ED Discharge Destination Hospital	X	X
Discharge Transport Agency	X	
Transfer Reason	X	
ED/Hospital Initial Pulse Rate	X	
ED/Hospital Initial Respiratory Rate	X	
ED/Hospital Initial Respiratory Assistance	X	
ED/Hospital Initial Oxygen Saturation	X	
ED/Hospital Initial Supplemental Oxygen	X	

ED/Hospital Intubation Status	X	
ED/Hospital Paralytic Agent in Effect	X	
ED/Hospital Initial Systolic Blood Pressure	X	
ED/Hospital Initial GCS – Eye Opening	X	
ED/Hospital Initial GCS – Verbal Response	X	
ED/Hospital Initial GCS – Motor Response	X	
ED/Hospital Initial GCS – Total	X	
ED/Hospital Initial GCS Assessment Qualifiers	X	
ED/Hospital Initial Temperature	X	
ED/Hospital Initial Units of Temperature	X	
ED/Hospital Initial Temperature Route	X	
ED/Hospital Initial Revised Trauma Score	X	
Alcohol Use Indicator	X	
Blood Alcohol Content (mg/dl)	X	
Drug Use Indicator	X	
Toxicology Substances Found	X	
<b>DISCHARGE DATA ELEMENTS</b>		
Hospital Discharge Date	X	X
Hospital Discharge Time	X	X
Hospital Admission Length of Stay (Days)	X	X
Total Length of Hospital Stay – ED plus Admission (Days)	X	
Final Outcome – Dead or Alive	X	X
Total ICU Length of Stay (Days)	X	X
Total Ventilator Days	X	
Hospital Discharge Disposition	X	X
Hospital Discharge Destination Hospital	X	X
Discharge Transport Agency	X	
Transfer Reason	X	
Autopsy Identification Number	X	
Injury Diagnoses – ICD-9-CM N-codes	X	X
AIS Six-Digit Injury Identifier	X*	
AIS Severity Code	X	
AIS Body Region of Injury	X	
Injury Severity Score	X	
Probability of Survival	X	
ED/Hospital Procedure Location	X	
ED/Hospital Procedure Start Date	X	
ED/Hospital Procedure Start Time	X	
ED/Hospital ICD-9-CM Procedure Codes	X	
Hospital Complications	X	
Primary Method of Payment	X	
Secondary Method of Payment	X	
Total Hospital Charges	X	
Total Reimbursements	X	

**Historical Note**

New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

**R9-25-1403. Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))**

- A. The Department shall produce and disseminate to each submitting health care institution a quarterly trauma system data report that includes statewide aggregate trauma data.
- B. A person may request to receive a report containing statewide aggregate trauma data for data elements not included in the quarterly trauma system data report by submitting a written public records request to the Department as provided in A.A.C. R9-1-303.
- C. The Department shall process a request for a report submitted under subsection (B) as provided in A.A.C. R9-1-303.
- D. As provided in A.R.S. § 36-2220(A)(1), Trauma Registry data from which a patient, the patient's family, or the patient's health care provider or facility might be identified is confidential and is not available to the public.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

**R9-25-1404. Expired****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

**R9-25-1405. Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)**

- A. As provided in A.R.S. §§ 36-2220(A)(2) and 36-2403(A), all data and documents obtained by the Department or considered by the Department, the State Trauma Advisory Board, or a State Trauma Advisory Board subcommittee for purposes of trauma system quality assurance are confidential and are not available to the public.
- B. The Department shall ensure that:
  - 1. Each member of the State Trauma Advisory Board or member of a State Trauma Advisory Board subcommittee who will have access to the data and documents described in subsection (A) executes a written confidentiality statement before being allowed access to the data and documents;
  - 2. All trauma system quality assurance activities are completed in executive session during State Trauma Advisory Board or State Trauma Advisory Board subcommittee meetings;
  - 3. Except for one historical copy, all copies of data and documents described in subsection (A) and used during an executive session are collected at the end of the executive session and destroyed after the State Trauma Advisory Board or State Trauma Advisory Board subcommittee meeting; and

- 4. Executive session minutes and all copies of data and documents described in subsection (A) are maintained in a secure area and are accessible only to authorized Department employees.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4).

**R9-25-1406. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))**

- A. To ensure the completeness and accuracy of trauma registry reporting, a submitting health care institution shall allow the Department to review the following, upon prior notice from the Department of at least five business days:
  - 1. The submitting health care institution's database that includes data regarding cases;
  - 2. Patient medical records; and
  - 3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient.
- B. Upon prior notice from the Department of at least five business days, a submitting health care institution shall provide the Department with all of its patient medical records for a time period specified by the Department, to allow the Department to review the patient medical records and determine whether the submitting health care institution has submitted data to the trauma registry for the cases who received medical services within the time period.
- C. For purposes of subsection (B), the Department considers a submitting health care institution to be in compliance with R9-25-1402(A) if the submitting health care institution submitted data to the trauma registry for 97% of the cases who received medical services within the time period.
- D. The Department shall return to a submitting health care institution data not submitted in compliance with R9-25-1402 and shall identify the revisions that are needed to bring the data into compliance with R9-25-1402.
- E. A submitting health care institution that has trauma registry data returned as provided in subsection (D) shall revise the data as identified by the Department and shall submit the revised data to the Department within 15 business days after the date the Department returned the data or within a longer period agreed upon between the Department and the submitting health care institution.
- F. Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a submitting health care institution shall prepare and submit to the Department the data set identified in Table 1 for the patient described in the simulated patient medical record.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

This page intentionally left blank.



**TITLE 9. HEALTH SERVICES****CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM**

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 01-3).*

*Editor's Note: This Chapter contains rules which were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6, §§ 1001 et seq.) as specified in Laws 1992, Ch. 301, § 61 and Ch. 302, § 13, and Laws 1994, Ch. 322, § 21. Exemption from A.R.S. Title 41, Chapter 6 means that AHCCCS did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; AHCCCS did not submit these rules to the Governor's Regulatory Review Council; AHCCCS was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.*

**ARTICLE 1. DEFINITIONS**

*Former Section R9-28-101 repealed; new Sections R9-28-101 thru R9-28-111 adopted effective December 8, 1997 (Supp. 97-4).*

## Section

- R9-28-101. General Definitions
- R9-28-102. Covered Services Related Definitions
- R9-28-103. Preadmission Screening Related Definitions
- R9-28-104. Repealed
- R9-28-105. Repealed
- R9-28-106. Request for Proposals and Contract Process Related Definitions
- R9-28-107. Repealed
- R9-28-108. Repealed
- R9-28-109. Repealed
- R9-28-110. Reserved
- R9-28-111. Behavioral Health Services Related Definitions

**ARTICLE 2. COVERED SERVICES**

## Section

- R9-28-201. General Requirements
- R9-28-202. Medical Services
- R9-28-203. Repealed
- R9-28-204. Institutional Services
- R9-28-205. Home and Community Based Services (HCBS)
- R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting

**ARTICLE 3. PREADMISSION SCREENING (PAS)**

## Section

- R9-28-301. Definitions
- R9-28-302. General Provisions
- R9-28-303. Preadmission Screening (PAS) Process
- R9-28-304. Preadmission Screening Criteria for an Applicant or Member who is Elderly and Physically Disabled (EPD)
- R9-28-305. Preadmission Screening Criteria for an Applicant or Member who is Developmentally Disabled (DD)
- R9-28-306. Reassessments
- R9-28-307. The ALTCS Transitional Program for a Member who is Elderly and Physically Disabled (EPD) or Developmentally Disabled (DD)

**ARTICLE 4. ELIGIBILITY AND ENROLLMENT**

## Section

- R9-28-401. Eligibility and Enrollment-Related Definitions
- R9-28-401.01. General
- R9-28-402. Categorical Requirements and Coverage Groups
- R9-28-403. State Residency
- R9-28-404. Citizenship and Qualified Alien Status
- R9-28-405. Social Security Enumeration
- R9-28-406. ALTCS Living Arrangements
- R9-28-407. Resource Criteria for Eligibility

- R9-28-408. Income Criteria for Eligibility
- R9-28-409. Transfer of Assets
- R9-28-410. Community Spouse
- R9-28-411. Changes, Redeterminations, and Notices
- R9-28-412. General Enrollment
- R9-28-413. Enrollment with an EPD Program Contractor
- R9-28-414. Enrollment with the DD Program Contractor
- R9-28-415. Enrollment with a Tribal Program Contractor
- R9-28-416. Enrollment with the FFS Program
- R9-28-417. Notification Requirements
- R9-28-418. Disenrollment

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS**

## Section

- R9-28-501. Program Contractor and Provider Standards – Related Definitions
- R9-28-501.01. Pre-Existing Conditions
- R9-28-502. Long-term Care Provider Requirements
- R9-28-503. Licensure and Certification for Long-term Care Institutional Facilities
- R9-28-504. Standards of Participation, Licensure, and Certification for HCBS Providers
- R9-28-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services
- R9-28-506. Requirements for Spouse as Paid Caregiver
- R9-28-507. Program Contractor General Requirements
- R9-28-508. Self-directed Attendant Care (SDAC)
- R9-28-509. Reserved
- R9-28-510. Case Management
- R9-28-511. Quality Management/Utilization Management (QM/UM) Requirements
- R9-28-512. Expired
- R9-28-513. Program Compliance Audits
- R9-28-514. Release of Safeguarded Information by the Administration and Contractors
- R9-28-515. Repealed

**ARTICLE 6. RFP AND CONTRACT PROCESS**

*Article 6, consisting of Sections R9-28-601 through R9-28-610, repealed; new Article 6, consisting of Sections R9-28-601 through R9-28-608, adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).*

## Section

- R9-28-601. General Provisions
- R9-28-602. RFP
- R9-28-603. Contract Award
- R9-28-604. Contract or Proposal Protests; Appeals
- R9-28-605. Waiver of Contractor's Subcontract with Hospitals
- R9-28-606. Contract Compliance Sanction
- R9-28-607. Repealed
- R9-28-608. Repealed
- R9-28-609. Repealed

R9-28-610. Repealed

**ARTICLE 7. STANDARDS FOR PAYMENTS**

## Section

- R9-28-701. Standards for Payment Related Definitions
- R9-28-701.10. General Requirements
- R9-28-702. Repealed
- R9-28-703. Repealed
- R9-28-704. Repealed
- R9-28-705. Repealed
- R9-28-706. Repealed
- R9-28-707. Repealed
- R9-28-708. Repealed
- R9-28-709. Repealed
- R9-28-710. Repealed
- R9-28-711. Repealed
- R9-28-712. County of Fiscal Responsibility
- R9-28-713. Repealed
- R9-28-714. Repealed
- R9-28-715. Repealed

**ARTICLE 8. TEFRA LIENS AND RECOVERIES**

*Article 8, consisting of Sections R9-28-801 through R9-28-807, made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).*

*Article 8, consisting of Sections R9-28-801 through R9-28-803, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).*

## Section

- R9-28-801. Definitions Related to TEFRA Liens
- R9-28-801.01. TEFRA Liens – General
- R9-28-802. TEFRA Liens – Affected Members
- R9-28-803. TEFRA Liens – Prohibitions
- R9-28-804. TEFRA Liens – AHCCCS Notice of Intent
- R9-28-805. TEFRA Liens and Estate Recovery – Member's Request for a State Fair Hearing
- R9-28-806. TEFRA Liens – Recovery
- R9-28-807. TEFRA Liens – Release

**ARTICLE 9. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**

## Section

- R9-28-901. Definitions
- R9-28-902. General Provisions
- R9-28-903. Cost Avoidance
- R9-28-904. Member Participation
- R9-28-905. Collections
- R9-28-906. AHCCCS Monitoring Responsibilities
- R9-28-907. Notification for Perfection, Recording, and Assignment of AHCCCS Liens
- R9-28-908. Notification Information for Liens
- R9-28-909. Notification of Health Insurance Information
- R9-28-910. Recoveries
- R9-28-911. Estate Recovery and Undue Hardship
- R9-28-912. Partial Recovery
- R9-28-913. Repealed
- R9-28-914. Repealed
- R9-28-915. Repealed
- R9-28-916. Repealed
- R9-28-917. Repealed
- R9-28-918. Repealed
- R9-28-919. Repealed

**ARTICLE 10. CIVIL MONETARY PENALTIES AND ASSESSMENTS**

## Section

- R9-28-1001. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims
- R9-28-1002. Repealed
- R9-28-1003. Repealed
- R9-28-1004. Repealed

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES**

*Article 11, consisting of Sections R9-28-1101 through R9-28-1106, repealed; new Article 11, consisting of Sections R9-28-1101 through R9-28-1108, adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4).*

## Section

- R9-28-1101. General Requirements
- R9-28-1102. Program or Tribal Contractor Responsibilities
- R9-28-1103. Eligibility for Covered Services
- R9-28-1104. General Service Requirements
- R9-28-1105. Scope of Behavioral Health Services
- R9-28-1106. General Provisions and Standards for Service Providers
- R9-28-1107. General Provisions for Payment
- R9-28-1108. Repealed

**ARTICLE 12. REPEALED**

*Article 12, consisting of Section R9-28-1201, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 12 is now in 9 A.A.C. 34 (Supp. 04-1).*

*Article 12, consisting of Section R9-28-1201, adopted effective September 9, 1998 (Supp. 98-3).*

## Section

- R9-28-1201. Repealed

**ARTICLE 13. FREEDOM TO WORK**

*Article 13, consisting of Sections R9-28-1301 through R9-28-1324, made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).*

## Section

- R9-28-1301. General Freedom to Work Requirements
- R9-28-1302. General Administration Requirements
- R9-28-1303. Application for Coverage
- R9-28-1304. Notice of Approval or Denial
- R9-28-1305. Reporting and Verifying Changes
- R9-28-1306. Actions that Result from a Redetermination or Change
- R9-28-1307. Notice of Adverse Action
- R9-28-1308. Request for Hearing
- R9-28-1309. Conditions of Eligibility
- R9-28-1310. Repealed
- R9-28-1311. Repealed
- R9-28-1312. Repealed
- R9-28-1313. Premium Requirements
- R9-28-1314. Repealed
- R9-28-1315. Repealed
- R9-28-1316. Institutionalized Person
- R9-28-1317. Repealed
- R9-28-1318. Repealed
- R9-28-1319. Repealed
- R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group
- R9-28-1321. Share of Cost
- R9-28-1322. Repealed
- R9-28-1323. Enrollment

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

R9-28-1324. Redetermination of Eligibility

**ARTICLE 1. DEFINITIONS****R9-28-101. General Definitions**

**A.** Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation		
"210"	42 CFR 435.211	"County of fiscal responsibility"	R9-28-701
"217"	42 CFR 435.217	"Covered services"	R9-28-101
"236"	42 CFR 435.236	"CPT"	R9-22-701
"Acute"	R9-28-301	"Crawling and standing"	R9-28-301
"ADHS"	R9-22-101	"CSRD"	R9-28-401
"ADL"	R9-28-101	"Current"	R9-28-301
"Administration"	A.R.S. § 36-2931	"Day"	R9-22-101
"Advance notice"	R9-28-411	"De novo hearing"	42 CFR 431.201
"Aged"	R9-28-402	"Department"	A.R.S. § 36-2901
"Aggregate"	R9-22-701	"Developmental disability" or "DD"	A.R.S. § 36-551
"Aggression"	R9-28-301	"Diagnostic services"	R9-22-101
"AHCCCS"	R9-22-101	"Director"	R9-22-101
"AHCCCS registered provider"	R9-22-101	"Disabled"	R9-28-402
"ALTCS"	R9-28-101	"Disenrollment"	R9-22-1701
"ALTCS acute care services"	R9-28-401	"Disruptive behavior"	R9-28-301
"Alternative HCBS setting"	R9-28-101	"DME"	R9-22-101
"Ambulance"	A.R.S. § 36-2201	"Dressing"	R9-28-301
"Ambulation"	R9-28-301	"Eating"	R9-28-301
"Applicant"	R9-22-101	"Eating or drinking"	R9-28-301
"Assessor"	R9-28-301	"Elderly"	R9-28-301
"Associating time with an event and an action"	R9-28-301	"Emergency medical services for the non-FES member"	R9-22-201
"Auto-assignment algorithm" or "Algorithm"	R9-22-1701	"Emotional and cognitive functioning"	R9-28-301
"Bathing"	R9-28-301	"Employed"	R9-28-1320
"Bathing or showering"	R9-28-301	"Encounter"	R9-22-701
"Bed hold"	R9-28-102	"Enrollment"	R9-22-1701
"Behavior intervention"	R9-28-102	"EPD"	R9-28-301
"Behavior management services"	R9-22-1201	"E.P.S.D.T. services"	42 CFR 440.40(b)
"Behavioral health evaluation"	R9-22-1201	"Estate"	A.R.S. § 14-1201
"Behavioral health medical practitioner"	R9-22-1201	"Experimental services"	R9-22-101
"Behavioral health professional"	R9-20-101	"Expressive verbal communication"	R9-28-301
"Behavioral health service"	R9-20-101	"Facility"	R9-22-101
"Behavioral health technician"	R9-20-101	"Factor"	42 CFR 447.10
"Billed charges"	R9-22-701	"Fair consideration"	R9-28-401
"Blind"	42 U.S.C. 1382c(a)(2)	"FBR"	R9-22-101
"Capped fee-for-service"	R9-22-101	"Federal financial participation" or "FFP"	42 CFR 400.203
"Caregiver training"	R9-28-301	"Fee-For-Service" or "FFS"	R9-22-101
"Case management plan"	R9-28-101	"File"	R9-28-901
"Case management"	R9-28-1101	"First continuous period of institutionalization"	R9-28-401
"Case manager"	R9-28-101	"Food preparation"	R9-28-301
"Case record"	R9-22-101	"Frequency"	R9-28-301
"Categorically-eligible"	R9-22-101	"Functional assessment"	R9-28-301
"Certification"	R9-28-501	"Grievance"	R9-34-202
"Certified psychiatric nurse practitioner"	R9-22-1201	"Grooming"	R9-28-301
"CFR"	R9-28-101	"GSA"	R9-22-101
"Child"	R9-22-1503	"Guardian"	A.R.S. § 14-5311
"Chronic"	R9-28-301	"Hand use"	R9-28-301
"Clarity of communication"	R9-28-301	"HCBS" or "Home and community based services"	A.R.S. §§ 36-2931
"Clean claim"	A.R.S. § 36-2904	"Health care practitioner"	R9-22-1201
"Climbing stairs or a ramp"	R9-28-301	"History"	R9-28-301
"Clinical supervision"	R9-22-201	"Home"	R9-28-101 and R9-28-901
"CMS"	R9-22-101	"Home health services"	R9-22-201
"Community mobility"	R9-28-301	"Hospice"	A.R.S. § 36-401
"Community spouse"	R9-28-401	"Hospital"	R9-22-101
"Consecutive days"	R9-28-901	"ICF-MR" or "Intermediate care facility for the mentally retarded"	42 U.S.C. 1396d(d)
"Continence"	R9-28-301	"IADL"	R9-28-101
"Contract"	R9-22-101	"IHS"	R9-22-101
"Contract year"	R9-22-101	"IMD" or "Institution for mental diseases"	42 CFR 435.1010
"Contractor"	A.R.S. § 36-2901	"Immediate risk of institutionalization"	R9-28-301
"Cost avoid"	R9-22-1201	"Institutionalized"	R9-28-401
		"Institutionalized spouse"	R9-28-101
		"Interested Party"	R9-28-106
		"Intergovernmental agreement" or "IGA"	R9-28-1101

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

“Intervention”	R9-28-301	“Self-injurious behavior”	R9-28-301
“JCAHO”	R9-28-101	“Sensory”	R9-28-301
“License” or “licensure”	R9-22-101	“Seriously mentally ill” or “SMI”	A.R.S. § 36-550
“Limited or occasional”	R9-28-301	“Social worker”	R9-28-301
“Medical assessment”	R9-28-301	“Special diet”	R9-28-301
“Medical or nursing services and treatments”		“Speech therapy”	R9-22-201
or “services and treatments”	R9-28-301	“Spouse”	R9-28-401
“Medical record”	R9-22-101	“SSA”	42 CFR 1000.10
“Medical services”	A.R.S. § 36-401	“SSI”	42 CFR 435.4
“Medical supplies”	R9-22-201	“Subcontract”	R9-22-101
“Medically eligible”	R9-28-401	“TEFRA lien”	R9-28-901
“Medically necessary”	R9-22-101	“Therapeutic leave”	R9-28-501
“Member”	A.R.S. § 36-2931 and R9-28-901	“Toileting”	R9-28-301
“Mental disorder”	A.R.S. § 36-501	“Transferring”	R9-28-301
“MMMNA”	R9-28-401	“TRBHA”	R9-22-1201
“Mobility”	R9-28-301	“Tribal contractor”	R9-28-1101
“Noncontracting provider”	A.R.S. § 36-2931	“Tribal facility”	A.R.S. § 36-2981
“Nursing facility” or “NF”	42 U.S.C. 1396r(a)	“Utilization management”	R9-22-501
“Occupational therapy”	R9-22-201	“Ventilator dependent”	R9-28-102
“Orientation”	R9-28-301	“Verbal or physical threatening”	R9-28-301
“Partial care”	R9-22-1201	“Vision”	R9-28-301
“PAS”	R9-28-103	“Wandering”	R9-28-301
“Personal hygiene”	R9-28-301	“Wheelchair mobility”	R9-28-301
“Pharmaceutical service”	R9-22-201		
“Physical interruption”	R9-28-301	<b>B.</b> General definitions. In addition to definitions contained in	
“Physical participation”	R9-28-301	A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article	
“Physical therapy”	R9-22-201	1, the following words and phrases have the following mean-	
“Physically disabled”	R9-28-301	ings unless the context of the Chapter explicitly requires	
“Physically lift”	R9-28-301	another meaning:	
“Physician”	R9-22-101		
“Physician consultant”	R9-28-301	“ADL” or “Activities of Daily Living” mean activities a mem-	
“Place”	R9-28-901	ber must perform daily for the member’s regular day-to-day	
“Post-stabilization care services”	42 CFR 438.114	necessities, including but not limited to mobility, transferring	
“Practitioner”	R9-22-201	bathing, dressing, grooming, eating, and toileting.	
“Primary care provider” or “(PCP)”	R9-22-101		
“Primary care provider services”	R9-22-201	“ALTCS” means the Arizona Long-term Care System as	
“Prior authorization”	R9-22-101	authorized by A.R.S. § 36-2932.	
“Prior period coverage” or “PPC”	R9-22-101		
“Program contractor”	A.R.S. § 36-2931	“Alternative HCBS setting” means a living arrangement	
“Provider”	A.R.S. § 36-2931	approved by the Director and licensed or certified by a regula-	
“Psychiatrist”	R9-22-1201	tory agency of the state, where a member may reside and	
“Psychologist”	R9-22-1201	receive HCBS, including:	
“Psychosocial rehabilitation services”	R9-22-201		
“Qualified behavioral health service provider”	R9-28-1101	For a person with a developmental disability specified in	
“Quality management”	R9-22-501	A.R.S. § 36-551:	
“Radiology”	R9-22-101		
“Reassessment”	R9-28-103	Community residential setting defined in A.R.S. §	
“Recover”	R9-28-901	36-551;	
“Redetermination”	R9-28-401	Group home defined in A.R.S. § 36-551;	
“Referral”	R9-22-101	State-operated group home under A.R.S. § 36-591;	
“Regional behavioral health authority”		Group foster home under R6-5-5903;	
or “RBHA”	A.R.S. § 36-3401	Licensed residential facility for a person with trau-	
“Reinsurance”	R9-22-701	matic brain injury under A.R.S. § 36-2939;	
“Remembering an instruction and demonstration”	R9-28-301	Behavioral health adult therapeutic home under 9	
“Representative”	R9-28-401	A.A.C 20, Articles 1 and 15;	
“Resistiveness”	R9-28-301	Level 2 and Level 3 behavioral health residential	
“Resistiveness or rebelliousness”	R9-28-301	agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6;	
“Respiratory therapy”	R9-22-201	and	
“Respite care”	R9-28-102	Rural substance abuse transitional centers under 9	
“RFP”	R9-22-101	A.A.C. 20, Articles 1 and 14; and	
“Room and board”	R9-28-102		
“Rolling and sitting”	R9-28-301	For a person who is EPD under R9-28-301, and the facil-	
“Running or wandering away”	R9-28-301	ity, setting, or institution is registered with AHCCCS:	
“Scope of services”	R9-28-102		
“Section 1115 Waiver”	A.R.S. § 36-2901	Adult foster care defined in A.R.S. § 36-401 and as	

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;

Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;

Behavioral health adult therapeutic home under 9 A.A.C. 20, Articles 1 and 15;

Level 2 and Level 3 behavioral health residential agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and

Rural substance abuse transitional centers under 9 A.A.C. 20, Articles 1 and 14.

“Case management plan” means a service plan developed by a case manager that involves the overall management of a member’s care, and the continued monitoring and reassessment of the member’s need for services.

“Case manager” means a person who is either a degreed social worker, a licensed registered nurse, or has a minimum of two years of experience in providing case management services to a person who is EPD.

“CFR” means Code of Federal Regulations, unless otherwise specified in this Chapter.

“Covered services” means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.

“Home” means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;

Residential care institution under A.R.S. § 36-401;

Community residential setting under A.R.S. § 36-551; or

Behavioral health facility under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

“IADL” or “Instrumental Activities of Daily Living” mean activities related to independent living that a member must perform, including but not limited to:

Preparing meals,  
Managing money,  
Shopping for groceries or personal items,  
Performing light or heavy housework, and  
Use of the telephone.

“IHS” means the Indian Health Service.

“Institutionalized spouse” means the same as defined in 42 U.S.C. 1396r-5.

“JCAHO” means the Joint Commission on Accreditation of Healthcare Organizations.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R.

874, effective March 4, 1999 (Supp. 99-1). Subsection (A)(69) amended to correct a printing error, filed in the Office of the Secretary of State August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

#### R9-28-102. Covered Services Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Bed hold” means a 24 hour per day unit of service that is authorized by an ALTCS case manager or designee during a period of short-term hospitalization or therapeutic leave that meets the requirement specified in 42 CFR 483.12.

“Behavior intervention” means the planned interruption of a member’s inappropriate behavior using techniques such as reinforcement, training, behavior modification, and other systematic procedures intended to result in more acceptable behavior.

“Respite care” means a short-term service provided in a NF or a home and community based service setting to an individual if necessary to relieve a family member or other person caring for the individual.

“Room and board” means lodging and meals.

“Scope of services” means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

“Ventilator dependent,” for purposes of ALTCS eligibility, means an individual is medically dependent on a ventilator for life support at least six hours per day and has been dependent on ventilator support as an inpatient in a hospital, NF, or ICF-MR for at least 30 consecutive days.

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).

#### R9-28-103. Preadmission Screening Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Developmental disability” is defined in A.R.S. § 36-551.

“PAS” means preadmission screening, which is the process of determining an individual’s risk of institutionalization at a NF or ICF-MR level of care, as specified in Article 3 of this Chapter.

“Reassessment” means the process of redetermining PAS eligibility for ALTCS services as appropriate, for all members.

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).  
Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1).

#### R9-28-104. Repealed

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended effective November 4, 1998 (Supp. 98-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).  
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Repealed by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

#### R9-28-105. Repealed

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

#### R9-28-106. Request for Proposals and Contract Process Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22 Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning: “Interested Party” means an actual or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a request for proposals, the award of a contract, or the failure to award a contract.

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

#### R9-28-107. Repealed

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended effective November 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).  
Section repealed by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3).

#### R9-28-108. Repealed

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final

rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1).

#### R9-28-109. Repealed

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

#### R9-28-110. Reserved

#### R9-28-111. Behavioral Health Services Related Definitions

Definitions. The words and phrases in this Chapter, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, have the same meaning as specified in 9 A.A.C. 22, Article 1.

#### Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).  
Amended by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4).

### ARTICLE 2. COVERED SERVICES

#### R9-28-201. General Requirements

In addition to the exclusions and limitations specified in this Article, services provided to a member are covered services if:

1. Medically necessary, cost effective, and federally reimbursable;
2. Coordinated by a case manager in accordance with requirements specified in R9-28-510;
3. The provider obtains prior authorization as required by a member’s program contractor or by the Administration:
  - a. Failure of the provider to obtain prior authorization is cause for denial.
  - b. Services provided during prior period coverage are exempt from prior authorization requirements;
4. Provided in facilities or areas of facilities that are licensed or certified under Article 5 of this Chapter, or meet other requirements described in Article 5 of this Chapter;
5. Rendered by AHCCCS registered providers as permitted under this Chapter and within their scope of practice; and
6. Provided at an appropriate level of care, as determined by the case manager or the primary care provider.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3).  
Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2).

#### R9-28-202. Medical Services

The Administration or a contractor shall cover medical services specified in 9 A.A.C. 22, Article 2 for a member, subject to the limitations and exclusions specified in Article 2, unless otherwise specified in this Chapter.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2).

**R9-28-203. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Repealed effective September 22, 1997 (Supp. 97-3).

**R9-28-204. Institutional Services****A.** Institutional services are provided in:

1. A NF;
  2. An ICF-MR; or
  3. A facility identified in R9-28-1105(A)(1)(b), (B), or (C).
- B.** The Administration and a contractor shall include the following services in the per diem rate for a facility listed in subsection (A):
1. Nursing care services;
  2. Rehabilitative services prescribed as a maintenance regimen;
  3. Restorative services, such as range of motion;
  4. Social services;
  5. Nutritional and dietary services;
  6. Recreational therapies and activities;
  7. Medical supplies and non-customized durable medical equipment under 9 A.A.C. 22, Article 2;
  8. Overall management and evaluation of a member's care plan;
  9. Observation and assessment of a member's changing condition;
  10. Room and board services, including supporting services such as food and food preparation, personal laundry, and housekeeping;
  11. Non-prescription and stock pharmaceuticals; and
  12. Respite care services not to exceed 600 hours per benefit year.

**C.** Each facility listed in subsection (A) is responsible for coordinating the delivery of at least the following auxiliary services:

1. Under 9 A.A.C. 22, Article 2:
  - a. Attending physician, practitioner, and primary care provider services;
  - b. Pharmaceutical services;
  - c. Diagnostic services under A.A.C. R9-22-208;
  - d. Emergency medical services; and
  - e. Emergency and medically necessary transportation services.
2. Therapy services under R9-28-206.

**D.** Limitations. The following limitations apply:

1. A private room in a NF, ICF-MR, or facility identified in R9-28-1105(A)(1)(b), (B), or (C) is covered only if:
  - a. The member or has a medical condition that requires isolation, and
  - b. The member's primary care provider or attending physician provides written authorization;
2. Each ICF-MR shall meet the standards in A.R.S. § 36-2939(B)(1), and in 42 CFR 483, Subpart I, February 28, 1992, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments;
3. Bed hold days as authorized by the Administration or its designee for a fee-for-service provider shall meet the following criteria:

- a. Short-term hospitalization leave for a member age 21 and over is limited to 12 days per AHCCCS benefit year, and is available if a member is admitted to a hospital for a short stay. After the short-term hospitalization, the member is returned to the institutional facility from which leave is taken, and to the same bed if the level of care required can be provided in that bed; and
  - b. Therapeutic leave for a member age 21 and older is limited to nine days per AHCCCS benefit year. A physician order is required for therapeutic leave from the facility for one or more overnight stays to enhance psycho-social interaction, or as a trial basis for discharge planning. After the therapeutic leave, the member is returned to the same bed within the institutional facility;
  - c. Therapeutic leave and short-term hospitalization leave are limited to any combination of 21 days per benefit year for a member under age 21;
4. The Administration or a contractor shall cover services that are not part of a per diem rate but are ALTCS covered services included in this Article, and deemed necessary by a member's case manager or the case manager's designee if:
- a. The services are ordered by the member's primary care provider; and
  - b. The services are specified in a case management plan under R9-28-510;
5. A member age 21 through 64 is eligible for behavioral health services provided in a facility under subsection (A)(3) that has more than 16 beds, for up to 30 days per admission and no more than 60 days per benefit year as allowed under the Administration's Section 1115 Waiver with CMS and except as specified by 42 CFR 441.151, May 22, 2001, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
6. The limitations in subsection (D)(5) do not apply to a member:
- a. Under age 21 or age 65 or over, or
  - b. In a facility with 16 beds or less.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (A) and (D) effective June 6, 1989 (Supp. 89-2). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 17 A.A.R. 1876, effective October 1, 2011 (Supp. 11-3).

**R9-28-205. Home and Community Based Services (HCBS)**

- A.** Subject to the availability of federal funds, HCBS are covered services if provided to a member residing in the member's own home or an alternative residential setting. Room and board services are not covered in a HCBS setting.
- B.** The case manager shall authorize and specify in a case management plan any additions, deletions, or changes in home and community based services provided to a member or in accordance with R9-28-510.
- C.** Home and community based services include the following:
1. Home health services provided on a part-time or intermittent basis. These services include:

- a. Nursing care;
- b. Home health aide;
- c. Medical supplies, equipment, and appliances;
- d. Physical therapy;
- e. Occupational therapy;
- f. Respiratory therapy; and
- g. Speech and audiology services;
2. Private duty nursing services;
3. Medical supplies and durable medical equipment, including customized DME, as described in 9 A.A.C. 22, Article 2;
4. Transportation services to obtain covered medically necessary services;
5. Adult day health services provided to a member in an adult day health care facility licensed under 9 A.A.C. 10, Article 5, including:
  - a. Supervision of activities specified in the member's care plan;
  - b. Personal care;
  - c. Personal living skills training;
  - d. Meals and health monitoring;
  - e. Preventive, therapeutic, and restorative health related services; and
  - f. Behavioral health services, provided either directly or through referral, if medically necessary;
6. Personal care services;
7. Homemaker services;
8. Home delivered meals, that provide at least one-third of the recommended dietary allowance, for a member who does not have a developmental disability under A.R.S. § 36-551;
9. Respite care services for no more than 600 hours per benefit year;
10. Habilitation services including:
  - a. Physical therapy;
  - b. Occupational therapy;
  - c. Speech and audiology services;
  - d. Training in independent living;
  - e. Special development skills that are unique to the member;
  - f. Sensory-motor development;
  - g. Behavior intervention; and
  - h. Orientation and mobility training;
11. Developmentally disabled day care provided in a group setting during a portion of a 24-hour period, including:
  - a. Supervision of activities specified in the member's care plan;
  - b. Personal care;
  - c. Activities of daily living skills training; and
  - d. Habilitation services; and
12. Supported employment services provided to a member in the ALTCS transitional program under R9-28-306 who is developmentally disabled under A.R.S. § 36-551.

#### Historical Note

Adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 17 A.A.R. 1876, effective October 1, 2011 (Supp. 11-3).

#### R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting

The Administration shall cover the following services if the services are provided to a member within the limitations listed:

1. Occupational and physical therapies, speech and audiology services, and respiratory therapy;

- a. The duration, scope, and frequency of each therapeutic modality or service is prescribed by the member's primary care provider or attending physician;
- b. The therapy or service is authorized by the member's contractor or the Administration; and
- c. The therapy or service is included in the members case management plan;
- d. AHCCCS will not cover more than 15 outpatient physical therapy visits for the contract year with the exception of the required Medicare coinsurance and deductible payment as described in 9 A.A.C. 29, Article 3.
2. Medical supplies, durable medical equipment, and customized durable medical equipment, which conform with the requirements and limitations of 9 A.A.C. 22, Article 2;
3. Ventilator dependent services:
  - a. Inpatient or institutional services are limited to services provided in a general hospital, special hospital, NF, or ICF-MR. Services provided in a general or special hospital are included in the hospital's unit tier rate under 9 A.A.C. 22, Article 7;
  - b. A ventilator dependent member may receive the array of home and community based services under R9-28-205 as appropriate.
4. Hospice services:
  - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
  - b. Covered hospice services for a member are those allowable under 42 CFR 418.202, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
  - c. Covered hospice services do not include:
    - i. Medical services provided that are not related to the terminal illness, or
    - ii. Home delivered meals.
  - d. Medicare is the primary payor of hospice services for a member if applicable.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1664, effective October 1, 2010 (Supp. 10-3).

#### ARTICLE 3. PREADMISSION SCREENING (PAS)

##### R9-28-301. Definitions

- A. Common definitions. In addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, the words and phrases in this Article have the following meanings for an individual who is elderly or physically disabled (EPD) or developmentally disabled (DD) unless the context explicitly requires another meaning:

"Applicant" is defined in A.A.C. R9-22-101.

"Assessor" means a social worker as defined in this subsection or a licensed registered nurse (RN) who:

Is employed by the Administration to conduct PAS assessments,



## Arizona Health Care Cost Containment System – Arizona Long-term Care System

Completes a minimum of 30 hours of classroom training in both EPD and DD PAS for a total of 60 hours, and

Receives intensive oversight and monitoring by the Administration during the first 30 days of employment and ongoing oversight by the Administration during all periods of employment.

“Current” means belonging to the present time.

“Disruptive behavior” means inappropriate behavior by the applicant or member including urinating or defecating in inappropriate places, sexual behavior inappropriate to time, place, or person or excessive whining, crying, or screaming that interferes with an applicant’s or member’s normal activities or the activities of others and requires intervention to stop or interrupt the behavior.

“Frequency” means the number of times a specific behavior occurs within a specified interval.

“Functional assessment” means an evaluation of information about an applicant’s or member’s ability to perform activities related to:

- Developmental milestones,
- Activities of daily living,
- Communication, and
- Behavior.

“Immediate risk of institutionalization” means the status of an applicant or member under A.R.S. § 36-2934(A)(5) and as specified in A.R.S. § 36-2936 and in the Administration’s Section 1115 Waiver with Centers for Medicare and Medicaid Services (CMS).

“Intervention” means therapeutic treatment, including the use of medication, behavior modification, and physical restraints to control behavior. Intervention may be formal or informal and includes actions taken by friends or family to control the behavior.

“Medical assessment” means an evaluation of an applicant’s or member’s medical condition and the applicant’s or member’s need for medical services.

“Medical or nursing services and treatments” or “services and treatments” means specific, ongoing medical, psychiatric, or nursing intervention used actively to resolve or prevent deterioration of a medical condition. Durable medical equipment and activities of daily living assistive devices are not treatment unless the equipment or device is used specifically and actively to resolve the existing medical condition.

“Physician consultant” means a physician who contracts with the Administration.

“Social worker” means an individual with two years of case management-related experience or a baccalaureate or master’s degree in:

- Social work,
- Rehabilitation,
- Counseling,
- Education,
- Sociology,
- Psychology, or
- Other closely related field.

“Special diet” means a diet planned by a dietitian, nutritionist, or nurse that includes high fiber, low sodium, or pureed food.

“Toileting” means the process involved in an applicant’s or member’s managing of the elimination of urine and feces in an appropriate place.

“Vision” means the ability to perceive objects with the eyes.

- B.** EPD. In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is EPD:

“Aggression” means physically attacking another, including:

- Throwing an object,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair,
- Scratching, and
- Physically threatening behavior.

“Bathing” means the process of washing, rinsing, and drying all parts of the body, including an applicant’s or member’s ability to transfer to a tub or shower and to obtain bath water and equipment.

“Continence” means the applicant’s or member’s ability to control the discharge of body waste from bladder and bowel.

“Dressing” means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear. Dressing includes choosing a weather-appropriate article of clothing but excludes aesthetic concerns. Dressing includes the applicant’s or member’s ability to put on artificial limbs, braces, and other appliances that are needed daily.

“Eating” means the process of putting food and fluids by any means into the digestive system.

“Emotional and cognitive functioning” means an applicant’s or member’s orientation and mental state, as evidenced by aggressive, self-injurious, wandering, disruptive, and resistive behaviors.

“EPD” means an applicant or member who is elderly and physically disabled.

“Grooming” means an applicant’s or member’s process of tending to appearance. Grooming includes: combing or brushing hair; washing face and hands; shaving; oral hygiene (including denture care); and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, nail care, and applying cosmetics.

“Mobility” means the extent of an applicant’s or member’s purposeful movement within a residential environment.

“Orientation” means an applicant’s or member’s awareness of self in relation to person, place, and time.

“Physically disabled” means an applicant or member who is determined to be physically impaired by the Administration through the PAS assessment as allowed under the Administration’s Section 1115 Waiver with CMS.

“Resistiveness” means inappropriately obstinate and uncooperative behaviors, including passive or active obstinate behaviors, or refusing to participate in self-care or to take necessary medications. Resistiveness does not

include difficulties with auditory processing or reasonable expressions of self-advocacy.

“Self-injurious behavior” means repeated self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.

“Sensory” means of or relating to the senses.

“Transferring” means an applicant’s or member’s ability to move horizontally or vertically between two surfaces within a residential environment, excluding transfer for toileting or bathing.

“Wandering” means an applicant’s or member’s moving about with no rational purpose and with a tendency to go beyond the physical parameter of the residential environment.

**C. DD.** In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is DD:

“Acute” means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.

“Aggression” means physically attacking another, including:

- Throwing objects,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair, and
- Scratching.

“Ambulation” means the ability to walk and includes quality of the walking and the degree of independence in walking.

“Bathing or showering” means an applicant’s or member’s ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.

“Clarity of communication” means an ability to speak in recognizable language or use a formal symbolic substitution, such as American-Sign Language.

“Community mobility” means the applicant’s or member’s ability to move about a neighborhood or community independently, by any mode of transportation.

“Crawling and standing” means an applicant’s or member’s ability to crawl and stand with or without support.

“DD” means developmentally disabled.

“Developmental milestone” means a measure of an applicant’s or member’s functional abilities, including:

- Fine motor skills,
- Gross motor skills,
- Communication,
- Socialization,
- Daily living skills, and
- Behaviors.

“Dressing” means the ability to put on and remove an article of clothing. Dressing does not include the ability to put on or remove braces nor does it reflect an applicant’s or member’s ability to match colors or choose clothing appropriate for the weather.

“Eating or drinking” means the process of putting food and fluid by any means into the digestive system.

“Expressive verbal communication” means an applicant’s or member’s ability to communicate thoughts with words or sounds.

“Food preparation” means the ability to prepare a simple meal including a sandwich, cereal, or a frozen meal.

“Hand use” means the applicant’s or member’s ability to use both hands, or one hand if an applicant or member has only one hand or has the use of only one hand.

“History” means a medical condition that occurred in the past, regardless of whether the medical condition required treatment in the past, and is not now active.

“Personal hygiene” means the process of tending to one’s appearance. Personal hygiene may include: combing or brushing hair, washing face and hands, shaving, performing routine nail care, oral hygiene including denture care, and menstrual care. This does not include aesthetics such as styling hair, skin care, and applying cosmetics.

“Rolling and sitting” means an applicant’s or member’s ability to roll and sit independently or with the physical support of another person or with a device such as a pillow or specially-designed chair.

“Running or wandering away” means an applicant or member leaving a physical environment without notifying or receiving permission from the appropriate individuals.

“Self-injurious behavior” means an applicant’s or member’s repeated behavior that causes injury to the applicant or member.

“Verbal or physical threatening” means any behavior in which an applicant or member uses words, sounds, or action to threaten harm to self, others, or an object.

“Wheelchair mobility” means an applicant’s or member’s mobility using a wheelchair and does not include the ability to transfer to the wheelchair.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (C) effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed by emergency action, new Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed in the Secretary of State’s Office June 30, 1995 (Supp. 95-2). Section repealed by emergency action, new Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired June 1, 1996. Section in effect before emergency action restored. Section repealed; new Section adopted effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1).

#### **R9-28-302. General Provisions**

To qualify for services described in A.R.S. § 36-2939:

1. An applicant shall meet the financial criteria described in Article 4, and

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

2. AHCCCS shall determine that the applicant is at immediate risk of institutionalization under the PAS assessment as specified in this Article.

**Historical Note**

New Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed in the Office of the Secretary of State June 30, 1995 (Supp. 95-2). New Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026 (Supp. 96-1). Emergency expired June 1, 1996. New Section adopted effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4).

**R9-28-303. Preadmission Screening (PAS) Process**

- A. The assessor shall use the PAS instrument to determine whether the following applicants or members are at immediate risk of institutionalization:

1. The assessor shall use the PAS instrument prescribed in R9-28-304 to assess an applicant or member who is EPD except as specified in subsection (A)(2) for an applicant or member who is physically disabled and who is less than 6 years old. After assessing a child who is physically disabled and age 6 years to less than 12 years, the assessor shall refer the child for physician consultant review under subsections (G) through (J).
2. The assessor shall use the age-specific PAS instrument prescribed in R9-28-305 to assess an applicant or member who is physically disabled and less than 6 years old. After assessing the child, the assessor shall refer the child for physician consultant review under subsections (G) through (J).
3. The assessor shall use the PAS instrument prescribed in R9-28-305 to assess an applicant or member who is DD, except as specified in subsection (A)(4) for an applicant or member who is DD and residing in a NF. After assessing a child who is DD and less than 6 months of age, the assessor shall refer the child for physician consultant review under subsections (G) through (J).
4. The assessor shall use the PAS instrument prescribed in R9-28-304 for an applicant or a member who is DD and residing in a NF.
5. The assessor shall use the PAS instrument prescribed in R9-28-304 or R9-28-305, whichever is applicable, to assess an applicant or member who is classified as ventilator-dependent, under Section 1902(e)(9) of the Social Security Act.

- B. For an initial assessment of an applicant who is in a hospital or other acute care setting:

1. A registered nurse assessor shall complete the PAS assessment; or
2. In the event that a registered nurse assessor is not available, a social worker assessor shall complete the PAS assessment; and
3. The assessor shall conduct the PAS assessment and determine medical eligibility when discharge is scheduled within seven days.

- C. An assessor shall conduct a face-to-face PAS assessment with an applicant or member, except as provided in subsection (F). The assessor shall make reasonable efforts to obtain the applicant's or member's available medical records. The assessor may also obtain information for the PAS assessment from face-to-face interviews with the:

1. Applicant or member,

2. Parent,
3. Guardian,
4. Caregiver, or
5. Any person familiar with the applicant's or member's functional or medical condition.

- D. Using the information described in subsection (C), an assessor shall complete the PAS assessment based on the assessor's education, experience, professional judgment, and training.

- E. After the assessor completes the PAS assessment, the assessor shall calculate a PAS score. The assessor shall compare the PAS score to an established threshold score. The scoring methodology and threshold scores are specified in R9-28-304 and R9-28-305. Except as determined by physician consultant review as provided in subsections (G) through (J), the threshold score is the point at which an applicant or member is determined to be at immediate risk of institutionalization.

- F. Upon request from a person acting on behalf of the applicant, the Administration shall conduct a PAS assessment to determine whether a deceased applicant who was residing in a NF or who received services in an ICF-MR any time during the time period covered by the application would have been eligible to receive ALTCS benefits for those months.

- G. In the following circumstances, the Administration shall request that a physician consultant review the PAS assessment, the available medical records, and use professional judgment to make the determination that an applicant or member has a developmental disability or has a nonpsychiatric medical condition that, by itself or in combination with other medical conditions, places an applicant or member at immediate risk of institutionalization:

1. The PAS score of an applicant or member who is EPD is less than the threshold specified in R9-28-304, but is at least 56;
2. The PAS score of an applicant or member who is DD is less than the threshold specified in R9-28-305, but is at least 38;
3. An applicant or member scores below the threshold specified in R9-28-304, but the Administration has reasonable cause to believe that the applicant's or member's unique functional abilities or medical condition may place the applicant or member at immediate risk of institutionalization;
4. An applicant or member scores below the threshold specified in R9-28-304 and has a documented diagnosis of autism, autistic-like behavior, or pervasive developmental disorder;
5. An applicant or member who is seriously mentally ill as defined in A.R.S. § 36-550 who scores at or above the threshold specified in R9-28-304, but may not meet the requirements of A.R.S. § 36-2936. When an applicant or member who is seriously mentally ill scores at or above the threshold, the physician consultant shall exercise professional judgment to determine whether the applicant or member meets the requirements of A.R.S. § 36-2936.
6. An applicant is an AHCCCS acute care member and scores at or above the threshold specified in R9-28-304 but the Administration has reasonable cause to believe that the applicant's condition is convalescent and requires less than 90 days of institutional care;
7. An applicant or member is a child who is physically disabled and is at least 6 but less than 12 years of age;
8. An applicant or member is a child who is physically disabled and is under 6 years of age; and
9. An applicant is under 6 months of age.

- H. The physician consultant shall consider the following:

1. Activities of daily living dependence;

2. Delay in development;
  3. Continence;
  4. Orientation;
  5. Behavior;
  6. Any medical condition, including stability and prognosis of the condition;
  7. Any medical nursing treatment provided to the applicant or member including skilled monitoring, medication, and therapeutic regimens;
  8. The degree to which the applicant or member must be supervised;
  9. The skill and training required of the applicant or member's caregiver; and
  10. Any other factor of significance to the individual case.
- I.** If the physician consultant is unable to make the determination from the PAS assessment and the available medical records, the physician consultant may conduct a face-to-face review with the applicant or member or contact others familiar with the applicant's or member's needs, including a primary care physician or other caregiver, to make the determination.
- J.** The physician consultant shall state the reasons for the determination in the physician review comment section of the PAS instrument.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective July 13, 1992 (Supp. 92-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed by emergency action, new Section adopted by emergency action effective June 30, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Section repealed by emergency action, new Section adopted again by emergency action effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired June 1, 1996. Section in effect before emergency action restored. Section repealed; new Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-303 renumbered to R9-28-304; new Section R9-28-303 made by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1).

#### **R9-28-304. Preadmission Screening Criteria for an Applicant or Member who is Elderly and Physically Disabled (EPD)**

- A.** The PAS instrument for an applicant or member who is EPD includes the following categories:
1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of the intake information category are not included in the calculated PAS score.
  2. Functional assessment category. The assessor solicits functional assessment category information on an applicant's or member's:
    - a. Need for assistance with activities of daily living, including:
      - i. Bathing,
      - ii. Dressing,
      - iii. Grooming,
      - iv. Eating,
      - v. Mobility,
      - vi. Transferring, and
      - vii. Toileting in the residential environment or other routine setting;
    - b. Communication and sensory skills, including hearing, expressive communication, and vision; and
    - c. Continence, including bowel and bladder functioning.
  3. Emotional and cognitive functioning category. The assessor solicits emotional and cognitive functioning category information on an applicant's or member's:
    - a. Orientation to person, place, and time. In soliciting this information, the assessor shall also take into account the caregiver's judgment; and
    - b. Behavior, including:
      - i. Wandering,
      - ii. Self-injurious behavior,
      - iii. Aggression,
      - iv. Resistiveness, and
      - v. Disruptive behavior.
  4. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
    - a. Medical conditions that have an impact on the applicant's or member's functional ability in relation to activities of daily living, continence, and vision;
    - b. Medical condition that requires medical or nursing service and treatment;
    - c. Medication, treatment, and allergies;
    - d. Specific services and treatments that the applicant or member is currently receiving; and
    - e. Physical measurements, hospitalization history, and ventilator dependency.
- B.** The assessor shall use the PAS instrument to assess an applicant or member who is EPD as specified in this Section. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS assessment to calculate three scores: a functional score, a medical score, and a total score.
1. Functional score.
    - a. The Administration calculates the functional score from responses to scored items in the functional assessment and emotional and cognitive functioning categories. For each response to a scored item, a number of points is assigned, which is multiplied by a weighted numerical value. The result is a weighted score for each response.
    - b. In the functional assessment matrix, all items in the following categories are scored according to subsection (C):
      - i. Activities of daily living,
      - ii. Continence,
      - iii. Sensory,
      - iv. Orientation, and
      - v. Behavior.
    - c. The sum of the weighted scores equals the functional score. The weighted score per item can range from 0 to 15. The maximum functional score attainable by an applicant or member is 166.
  2. Medical score.
    - a. In the medical assessment matrix, all items in the following categories are scored according to:
      - i. Medical conditions as specified in subsection (C), and
      - ii. Medical or nursing services and treatments in subsection (C).

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

- b. The Administration calculates the medical score based on the applicant's or member's:
    - i. Diagnosis of Alzheimer's, dementia, or organic brain syndrome (OBS);
    - ii. Diagnosis of paralysis; and
    - iii. Current use of oxygen.
  - c. The maximum medical score attainable by an applicant or member is 31.5.
3. Total score.
    - a. The sum of an applicant's or member's functional and medical scores equals the total score.
    - b. The total score is compared to the established threshold score as calculated under this Section. The threshold score is 60.
    - c. As defined in R9-28-303, an applicant or member is determined at immediate risk of institutionalization if the total score is equal to or greater than 60.
- C. The following matrices represent the number of points available and the respective weight for each scored item.
    1. Functional assessment points. The lowest value in the range of points available per item in the functional assessment category, zero, indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
    2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, zero, indicates that the applicant or member:
      - a. Does not have the scored medical condition,
      - b. Does not need the scored medical or nursing services, or
      - c. Does not receive the scored medical or nursing services.

FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score per Item (P)x(W)
<b>Activities of Daily Living Section</b>			
Mobility	0-3	5	0-15
Transfer	0-3	5	0-15
Bathing	0-3	5	0-15
Dressing	0-3	5	0-15
Grooming	0-3	5	0-15
Eating	0-3	5	0-15
Toileting	0-3	5	0-15
<b>Continence Section</b>			
Bowel	0-3	1	0-3
Bladder	0-3	1	0-3
<b>Sensory Section</b>			
Vision	0-3	2	0-6
<b>Orientation Section</b>			
Place	0-4	.5	0-2
Time	0-4	.5	0-2
<b>Emotional or Cognitive Behavior Section</b>			
Aggression-Frequency	0-3	1.5	0-4.5
Aggression-Intervention	0-3	1.5	0-4.5
Self-injurious-Frequency	0-3	1.5	0-4.5
Self-injurious-Intervention	0-3	1.5	0-4.5
Wandering-Frequency	0-3	1.5	0-4.5
Wandering-Intervention	0-3	1.5	0-4.5
Resistiveness-Frequency	0-3	1.5	0-4.5
Resistiveness-Intervention	0-3	1.5	0-4.5
Disruptive-Frequency	0-3	1.5	0-4.5
Disruptive-Intervention	0-3	1.5	0-4.5

MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P)x(W)
<b>Medical Conditions Section</b>			
Paralysis	0-1	6.5	0 or 6.5
Alzheimer's, or OBS, or Dementia	0-1	20	0 or 20
<b>Services and Treatments Section</b>			
Oxygen	0-1	5	0 or 5

**Historical Note**

New Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed as an emergency rule with the Secretary of State's Office June 30, 1995 (Supp. 95-2). New Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired. New Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-304 renumbered to R9-28-305; new Section R9-28-304 renumbered from R9-28-303 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4).

**R9-28-305. Preadmission Screening Criteria for an Applicant or Member who is Developmentally Disabled (DD)**

- A. The Administration shall conduct a PAS assessment of an applicant or member who is DD using one of three PAS instruments specifically designed to assess an applicant or member in the following age groups:
  1. Twelve years of age and older,
  2. Six through 11 years of age, and
  3. Birth through 5 years of age.
- B. The PAS instruments for an applicant or member who is DD include three major categories:
  1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of this category are not included in the calculated PAS score.
  2. Functional assessment category. The functional assessment category differs by age group as indicated in subsections (B)(2)(a) through (e):
    - a. For an applicant or member 12 years of age and older, the assessor solicits the functional assessment category information on an applicant's or member's:
      - i. Need for assistance with independent living skills, including hand use, ambulation, wheelchair mobility, transfer, eating or drinking, dressing, personal hygiene, bathing or showering, food preparation, community mobility, and toileting;
      - ii. Communication skills and cognitive abilities, including expressive verbal communication, clarity of communication, associating time with an event and action, and remembering an instruction and a demonstration; and
      - iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, and resistive or rebellious behavior.
    - b. For an applicant or member 6 through 11 years of age, the assessor solicits the functional assessment category information on an applicant's or member's:
      - i. Need for assistance with independent living skills, including rolling and sitting, crawling and standing, ambulation, climbing stairs or ramps, wheelchair mobility, dressing, personal hygiene, bathing or showering, toileting, level of bladder control, and orientation to familiar settings;
      - ii. Communication, including expressive verbal communication and clarity of communication; and
      - iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, running or wandering away, and disruptive behavior.
    - c. For an applicant or member 6 months through 5 years of age, the assessor solicits the functional assessment category information on an applicant's or member's performance with respect to a series of developmental milestones that measure an applicant's or member's degree of functional growth.
  3. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
    - a. Medical condition;
    - b. Specific services and treatments the applicant or member receives or needs and the frequency of those services and treatments;
    - c. Current medication;
    - d. Medical stability;
    - e. Sensory functioning;
    - f. Physical measurements; and
    - g. Current living arrangement, ventilator dependency and eligibility for DES Division of Developmental Disabilities program services.
- C. The assessor shall use the PAS instrument to assess an applicant or member who is DD. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS instrument responses to calculate three scores: a functional score, a medical score, and a total score.
  1. Functional score.
    - a. The Administration calculates the functional score from responses to scored items in the functional assessment category. Each response is assigned a number of points which is multiplied by a weighted numerical value, resulting in a weighted score for each response.
    - b. The following items are scored as indicated in subsection (D), under the Functional Assessment matrix:
      - i. For an applicant or member 12 years of age and older, all items in the behavior section are scored. Designated items in the independent living skills, communication skills, and cognitive abilities sections are also scored;
      - ii. For an applicant or member 6 through 11 years of age, all items in the communication section are scored. Designated items in the independent living skills and behavior sections are scored;
      - iii. For an applicant or member 6 months of age through 5 years of age, items in the developmental milestones section are scored based on the age of the applicant.
    - c. The sum of the weighted scores equals the functional score. The range of weighted score per item and maximum functional score for each age group is presented below:

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

AGE GROUP	RANGE FOR WEIGHTED SCORE PER ITEM	MAXIMUM FUNCTIONAL SCORE ATTAINABLE
12+	0 - 11.2	124.1
6-11	0 - 24	112.5
0-5	0 - 5.0	106.02

- d. No minimum functional score is required.
2. Medical score.
- a. Subsections (C)(2)(a)(i) through (iii) are scored as indicated in subsection (D), under the Medical Assessment matrix:
- The assessor shall score designated items in the medical conditions for an applicant or member 12 years of age and older and 6 years of age through 11 years of age.
  - The assessor shall score designated items in the medical conditions and medical stability sections for an applicant or member 6 months of age through 5 years of age.
  - The assessor shall complete only the medical assessment section of the PAS for an applicant or member less than 6 months of age. There is no weighted or calculated score assigned. The assessor shall refer the applicant or member for physician consultant review.
  - The assessor shall complete only the medical assessment section of the PAS for an applicant or member less than 6 months of age. There is no weighted or calculated score assigned. The assessor shall refer the applicant or member for physician consultant review.
- b. The Administration calculates the medical score from information obtained in the medical assessment category. Each response to a scored item is assigned a number of points. The sum of the points

equals the medical score. The range of points per item and the maximum medical score attainable by an applicant or member is presented below:

AGE GROUP	RANGE OF POINTS PER ITEM	MAXIMUM MEDICAL SCORE ATTAINABLE
12+	0 - 20.6	21.4
6-11	0 - 2.5	5
0-5	0 - 10	60

- c. No minimum medical score is required.
3. Total score.
- The sum of an applicant's or member's functional and medical scores equals the total score.
  - The total score is compared to an established threshold score in R9-28-304. For an applicant or member who is DD, the threshold score is 40. Based upon the PAS instrument an applicant or member with a total score equal to or greater than 40 is at immediate risk of institutionalization.
- D. The following matrices represent the number of points available and the weight for each scored item.
- Functional assessment points. An applicant or member age group 0 to 5: The value is received for each negative response. An applicant or member age groups 6 to 11 and 12+: the lowest value in the range of points available per item in the functional assessment category indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
  - Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, zero, indicates that the applicant or member:
    - Does not have a medical condition specified in the following matrices,
    - Does not need medical or nursing service as specified in the following matrices, or
    - Does not receive any medical or nursing service as specified in the following matrices.

AGE GROUP 12 AND OLDER FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Independent Living Skills Section			
Hand Use, Food Preparation	0-3	3.5	0-10.5
Ambulation, Toileting, Eating, Dressing, Personal Hygiene	0-4	2.8	0-11.2
Communicative Skills and Cognitive Abilities Section			
Associating Time, Remembering Instructions	0-3	0.5	0 - 1.5
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	2.8	0-11.2
Resistive	0-3	3.5	0-10.5

AGE GROUP 12 AND OLDER MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	0.4	0-.4
Moderate, Severe, Profound Mental Retardation	0-1	20.6	0-20.6

<b>AGE GROUP 6-11 FUNCTIONAL ASSESSMENT</b>	<b># of Points Available Per Item (P)</b>	<b>Weight (W)</b>	<b>Range of Possible Weighted Score Per Item (P) x (W)</b>
Independent Living Skills Section			
Climbing Stairs, Wheelchair Mobility, Bladder Control	0-3	1.875	0-5.625
Ambulation, Dressing, Bathing, Toileting	0-4	1.5	0-6
Crawling or Standing	0-5	1.25	0-6.25
Rolling or Sitting	0-8	0.833	0-6.66
Communication Section			
Clarity	0-4	1.5	0-6
Expressive Communication	0-5	1.25	0-6.25
Behavior Section			
Wandering	0-4	6	0-24
Disruptive	0-3	7.5	0-22.5

<b>AGE GROUP 6 - 11 MEDICAL ASSESSMENT</b>	<b># of Points Available Per Item (P)</b>	<b>Weight (W)</b>	<b>Range of Possible Weighted Score Per Item (P) x (W)</b>
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	2.50	0-2.5

<b>AGE GROUP 0 – 5 FUNCTIONAL ASSESSMENT</b>	<b>Weight</b>
6 -9 Months	5.0
9-11 Months	4.1
12-17 Months	2.9
18-23 Months	2.125
24-29 Months	1.75
30-35 Months	1.55
36-47 Months	1.34
48-59 Months	1.14
60 Months+	1.03

<b>AGE GROUP 0 - 5 MEDICAL ASSESSMENT</b>	<b>Weight</b>
Cerebral Palsy	5.0
Epilepsy	5.0
Moderate, Severe, or Profound Mental Retardation (36 Months and older only)	15.0
Autism + M-CHAT (18 Months and older only) Fails at least six M-CHAT based questions	7.0
Autism + Behaviors (30-35 Months only) Exhibits at least 3 of 4 specific behaviors	5.0
Autism + Behaviors (36 Months and older only) Exhibits at least 6 of 8 specific behaviors	10.0
Drug Regulation + Administration (6 Months to 35 Months)	1.0
Drug Regulation + Administration (36 Months and older)	1.5
Non-Bowel/Bladder Ostomy Care (6 Months to 35 Months)	7.0
Non-Bowel/Bladder Ostomy Care (36 Months and older)	5.0
Tube Feeding (6 Months to 35 Months)	7.0
Tube Feeding (36 Months and older)	5.0
Physical Therapy or Occupational Therapy (6 Months to 35 Months)	1.0
Physical Therapy or Occupational Therapy (36 Months and older)	1.5
Acute Hospital Admission (One)	1.0
Acute Hospital Admissions (Two or more)	2.0
Direct Care Staff Trained (6 Months to 11 Months)	0.5
Direct Care Staff Trained (12 Months and older)	1.0
Special Diet	2.0



**Historical Note**

Section adopted by emergency action effective June 30, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Section adopted again by emergency action effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired. New Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-305 renumbered to R9-28-306; new Section R9-28-305 renumbered from R9-28-304 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1).

**R9-28-306. Reassessments**

- A.** An assessor shall reassess an ALTCS member to determine continued eligibility:
  1. In connection with a routine audit of the PAS assessment by AHCCCS;
  2. In connection with a request by a provider, program contractor, case manager, or other party, if AHCCCS determines that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the PAS assessment; or
  3. Annually when part of a population group identified by the Director in a written report as having an increased likelihood of becoming ineligible.
- B.** An assessor shall determine continued eligibility for ALTCS using the same criteria used for the initial PAS assessment as prescribed in R9-28-303.
- C.** An assessor shall refer the reassessment to physician consultant review if the member is:
  1. Determined ineligible,
  2. In the ALTCS Transitional Program under R9-28-307 and resides in a NF or ICF-MR, or
  3. Seriously mentally ill and no longer has a non-psychiatric medical condition that impacts the member's ability to function.

**Historical Note**

Adopted effective September 1, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 322, § 21; filed with the Office of the Secretary of State June 29, 1995 (Supp. 95-3). Former Section R9-28-306 renumbered to R9-28-307; new Section R9-28-306 renumbered from R9-28-305 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1).

**R9-28-307. The ALTCS Transitional Program for a Member who is Elderly and Physically Disabled (EPD) or Developmentally Disabled (DD)**

- A.** The ALTCS transitional program serves members enrolled in the ALTCS program who, at the time of reassessment as described in R9-28-306, no longer meet the threshold specified in R9-28-304 for EPD or in R9-28-305 for DD but do meet all other ALTCS eligibility criteria. The Administration shall compare the member's PAS assessment to a scoring methodology for eligibility in the ALTCS transitional program as defined in subsections (B) and (C).
- B.** The Administration shall transfer a member who is DD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the total PAS score is less than the threshold described in R9-28-305 but is at least 30, or the member is diagnosed with moderate, severe, or profound mental retardation.
- C.** The Administration shall transfer a member who is EPD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the PAS score is less than the threshold described in R9-28-304 but is at least 40.
- D.** For a member residing in a NF or ICF-MR, the program contractor or the Administration shall ensure that the member is moved to an approved home- and community-based setting

within 90 continuous days from the enrollment date of the member's eligibility for the ALTCS transitional program.

- E.** A member in the ALTCS transitional program shall continue to receive all medically necessary covered services as specified in Article 2.
- F.** A member in the ALTCS transitional program is eligible to receive up to 90 continuous days per NF or ICF-MR admission when the member's condition worsens to the extent that an admission is medically necessary.
- G.** For a member requiring medically necessary NF or ICF-MR services for longer than 90 days, the program contractor shall request the Administration to conduct a reassessment under R9-28-306.

**Historical Note**

New Section renumbered from R9-28-306 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4).

**ARTICLE 4. ELIGIBILITY AND ENROLLMENT****R9-28-401. Eligibility and Enrollment-Related Definitions**

Definitions. For purposes of this Article, the following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

"ALTCS acute care services" means services under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 and who:

Lives in an acute care living arrangement described in R9-28-406; or

Is not eligible for long-term care benefits, described in R9-28-409, due to a transfer under R9-28-409 without receiving fair consideration, or

Has refused institutionalized or HCBS services.

"Community spouse" means the husband or wife of an institutionalized person who has entered into a contract of marriage, recognized as valid by the state of Arizona, and who does not live in a medical institution.

"CSRD" means Community Spouse Resource Deduction, the amount of a married couple's resources that is excluded in the eligibility determination to prevent impoverishment of the community spouse as determined under R9-28-410.

"Fair consideration" means income, real or personal property, services, or support and maintenance equal to or exceeding the fair market value of the income or resources that were transferred.

"First continuous period of institutionalization" means the first period beginning on or after September 30, 1989 that the applicant was institutionalized for 30 consecutive days or more. To be considered institutionalized, the applicant must:

Have resided in a medical institution;

Have received paid formal Home and Community Based Services (HCBS);

Have received a combination of medical institutionalization and HCBS, or

Intend to receive HCBS and either:

Requests a Resource Assessment and is determined in need of institutional services by a Resource Assessment Medical Evaluation; or

Applies for ALTCS and is determined medically eligible by the Pre-Admission Screening (PAS).

“Institutionalized” means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution as determined by the PAS.

“Medically eligible” means meeting the ALTCS medical eligibility criteria under Article 3 of this Chapter.

“MMMNA” means Minimum Monthly Maintenance Needs Allowance.

“Redetermination” means a periodic review of all eligibility factors for a recipient.

“Representative” means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.

“Spouse” means a person legally married under Arizona law, a person eligible for Social Security benefits as the spouse of another person, or a person living with another person of the opposite sex and the couple represents themselves in the community as husband and wife.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5138, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

#### R9-28-401.01. General

##### A. Application for ALTCS coverage.

1. The Administration shall provide a person the opportunity to apply for ALTCS without delay.
2. A person may be accompanied, assisted, or represented by another in the application process.
3. To apply for ALTCS, a person shall submit an application to an ALTCS eligibility office.
  - a. The application shall contain the applicant's name and address.
  - b. Before the application is approved, a person listed in A.A.C. R9-22-1406(D) shall sign the application.
  - c. A witness shall also sign the application if an applicant signs the application with a mark.
  - d. The date of application is the date the application is received by the Administration or Department as described in R9-22-1406(C).
4. Except as provided in R9-22-1501(D)(5), the Administration shall determine eligibility within 45 days from the date of application.
5. An applicant or representative who files an ALTCS application may withdraw the application for ALTCS cover-

age either orally or in writing to the ALTCS eligibility office where the application was filed. The Administration shall provide the applicant with a denial notice under subsection (G).

6. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.
7. If a person dies before an application is filed, the Administration shall complete an eligibility determination on an application filed on behalf of the deceased applicant, if the application is filed in the month of the person's death.

##### B. Conditions of ALTCS eligibility. Except for persons identified in subsection (C), the Administration shall approve a person for ALTCS if all conditions of eligibility for one of the ALTCS coverage groups listed in R9-28-402(B) are met. The conditions of eligibility are:

1. Categorical requirements under R9-28-402;
2. Citizenship and alien status under R9-28-404;
3. SSN under R9-28-405;
4. Living arrangements under R9-28-406;
5. Resources under R9-28-407;
6. Income under R9-28-408;
7. Transfers under R9-28-409;
8. A legally authorized person shall assign rights to the Administration for medical support and for payment of medical care from any first- and third-parties and shall cooperate by:
  - a. Obtaining medical support and payments and establishing paternity for a child born out of wedlock, except for pregnant women under A.A.C. R9-22-1421, unless the person establishes good cause under 42 CFR 433.147 for not cooperating; and
  - b. Identifying and providing information to assist the Administration in pursuing first- and third-parties who may be liable to pay for care and services unless the person establishes good cause for not cooperating;
9. A person shall take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which a person may be entitled unless the person establishes good cause for not doing so;
10. State residency under R9-28-403;
11. Medical eligibility as specified in Article 3 of this Chapter; and
12. Providing information and verification as specified in subsection (D).

##### C. Persons eligible for Title IV-E or Title XVI. To be determined eligible for ALTCS, a person eligible for benefits under Title IV-E or Title XVI of the Social Security Act shall provide information to allow the Administration to determine:

1. Medical eligibility as specified in Article 3 of this Chapter,
2. Post-eligibility treatment of income as specified in R9-28-408,
3. The existence of trusts in accordance with federal and state law, and
4. Transfer of property as specified in R9-28-409.

##### D. Verification. If requested by the Administration, a person shall provide information and documentation to verify the following criteria or shall authorize the Administration to verify the following criteria:

1. Conditions of eligibility as specified in subsection (B); and
2. Other individual circumstances necessary to determine a person's eligibility and post-eligibility treatment of income (share-of-cost).

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

- E. Documentation of the eligibility decision. The ALTCS eligibility interviewer shall include facts in a person's case record to support the decision on the person's application.
- F. Eligibility effective date. Eligibility is effective the first day of the month that all eligibility requirements are met but no earlier than the month of application.
- G. Notice. The Administration shall send a person a written notice of the decision regarding the person's application. The notice shall include a statement of the action and an explanation of the person's hearing rights as specified in 9 A.A.C. 34 and:
  - 1. If the applicant's eligibility is approved, the notice shall contain:
    - a. The effective date of eligibility; and
    - b. Post-eligibility treatment of income (share-of-cost) information, which is the amount the person shall pay toward the cost of care.
  - 2. If the applicant's eligibility is denied, the notice shall contain:
    - a. The effective date of the denial;
    - b. A statement detailing the reason for the person's denial, including specific financial calculations and the financial eligibility standard if applicable; and
    - c. The legal authority supporting the decision.
- H. Confidentiality. The Administration shall maintain the confidentiality of a person's record and shall not disclose information regarding the person's financial, medical, or other privacy interests except under A.A.C. R9-22-512.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

**R9-28-402. Categorical Requirements and Coverage Groups**

- A. Categorical requirements. As a condition of ALTCS eligibility, a person shall meet one of the following categorical requirements in this Section under 42 CFR 435, Subpart F.
  - 1. Aged.
    - a. "Aged" means a person who is 65 years of age or older.
    - b. A person is considered to be age 65 on the day before the anniversary of birth.
    - c. Age shall be verified under 20 CFR 404.715 and 20 CFR 404.716.
  - 2. Blind. Blindness shall be determined by the DES Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(2).
  - 3. Disabled. A person is considered to be disabled for ALTCS if the person is determined medically eligible under Article 3.
  - 4. Child. A child is a person defined in A.A.C. R9-22-1420.
  - 5. Pregnant.
    - a. Pregnancy shall be medically verified by one of the following licensed health care professionals:
      - i. Licensed physician;
      - ii. Certified physician's assistant;
      - iii. Certified nurse practitioner;
      - iv. Licensed midwife; or
      - v. Licensed registered nurse, under the direction of a licensed physician.
    - b. Written verification of pregnancy shall include the expected date of delivery.
  - 6. A specified relative who is the caretaker relative of a deprived child under Section 2 of the AFDC State Plan as it existed on July 16, 1996, incorporated by reference and on file with the Administration and the Secretary of State.

This incorporation by reference contains no future editions or amendments.

- B. ALTCS coverage groups. In addition to other requirements in this Article, a person shall meet ALTCS eligibility criteria in one of the following coverage groups:
  - 1. A coverage group under A.R.S. §§ 36-2901(6)(a)(i) or 36-2901(6)(a)(ii).
  - 2. The 210 coverage group specified in 42 CFR 435.210. A person in the 210 coverage group is medically eligible as specified in Article 3 and would be eligible for SSI cash assistance or meets the criteria for AFDC under Section 2 of the AFDC State Plan as it existed on July 16, 1996.
  - 3. The 236 coverage group under 42 CFR 435.236. A person in the 236 coverage group is medically eligible as specified in Article 3 and the person resides in a medical institution.
  - 4. The 217 coverage group under 42 CFR 435.217. A person in the 217 coverage group is medically eligible as specified in Article 3 and the person resides in a home and community-based setting described in R9-28-406(A)(2).

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective November 4, 1998 (Supp. 98-4). New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3).

**R9-28-403. State Residency**

As a condition of eligibility, a person shall be a resident of Arizona as specified in 42 CFR 435.403, December 21, 1990, incorporated by reference and on file with the Administration and Secretary of State. This incorporation contains no future editions or amendments.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective July 13, 1992 (Supp. 92-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).

**R9-28-404. Citizenship and Qualified Alien Status**

As a condition of eligibility, a person shall be:

- 1. A citizen of the United States;
- 2. A qualified alien specified in 8 U.S.C. 1641 and A.R.S. § 36-2903.03, to the extent consistent with federal law; or
- 3. A nonqualified alien who received ALTCS services on or before August 21, 1996, as specified in Laws 1997, Ch. 300, § 70.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).

**R9-28-405. Social Security Enumeration**

As a condition of eligibility, a person shall furnish an SSN, as specified in 42 CFR 435.910 and 435.920.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).

**R9-28-406. ALTCS Living Arrangements**

- A.** Long-term care living arrangements. A person may be eligible for ALTCS services, under Article 2, while living in one of the following settings:
1. Institutional settings:
    - a. A NF defined in 42 U.S.C. 1396r(a),
    - b. An IMD for a person who is either under age 21 or age 65 or older or a person aged 21 through 64 for up to 30 days per admission and no more than 60 days per contract year under the Administration's Section 1115 Waiver with CMS,
    - c. An ICF-MR for a person with developmental disabilities,
    - d. A hospice (free-standing, hospital, or nursing facility subcontracted beds) defined in A.R.S. § 36-401; or
  2. Home and community-based services (HCBS) settings:
    - a. A person's home defined in R9-28-101(B), or
    - b. Alternative HCBS settings defined in R9-28-101(B).
- B.** ALTCS acute care living arrangements. A person applying for or receiving ALTCS coverage shall be eligible for only ALTCS acute care coverage in the following living arrangements, settings, or locations:
1. The gross income limit is 300 percent of the FBR for a person meeting the requirements of the 236 coverage group under R9-28-402(B) and who resides in one of the following settings:
    - a. A noncertified medical facility, or
    - b. A medical facility that is registered with AHCCCS but does not have a contract with an ALTCS program contractor, or
    - c. A location outside of Arizona if the person is temporarily absent from Arizona.
  2. The net income limit is 100 percent of the FBR for a person who does not meet the requirements of the 217 or 236 coverage groups specified in R9-28-402(B) and who resides in one of the following settings:
    - a. At home or in an alternative HCBS setting if a person refuses HCBS service; or
    - b. A room in an assisted living center, or a licensed assisted living home or center which is not registered with AHCCCS.
- C.** Inmate of a public institution. An inmate of a public institution is not eligible for the ALTCS program if federal financial participation (FFP) is not available.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3).

**R9-28-407. Resource Criteria for Eligibility**

- A.** The following Medicaid-eligible persons shall be deemed to meet the resource requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.
1. A person receiving Supplemental Security Income (SSI);
  2. A person receiving Title IV-E Foster Care Maintenance payment; or

3. A person receiving a Title IV-E Adoption Assistance.
- B.** Except as provided in subsection (C), if a person's ALTCS eligibility is most closely related to SSI and is not included in subsection (A), the Administration shall determine eligibility using resource criteria in 42 U.S.C. 1382(a)(3), 42 U.S.C. 1382b, and 20 CFR 416 Subpart L.
- C.** The Administration permits the following exceptions to the resource criteria for a person identified in subsection (B):
1. Resources of the spouse or parent of a minor child are disregarded beginning the first day in the month the person is institutionalized.
  2. The value of household goods and personal effects is excluded.
  3. The value of oil, timber, and mineral rights is excluded.
  4. The value of all of the following shall be disregarded:
    - a. Term insurance;
    - b. Burial insurance;
    - c. Assets that a person has irrevocably assigned to fund the expense of a burial;
    - d. The cash value of all life insurance if the face value does not exceed \$1,500 total per insured person and the policy has not been assigned to fund a pre-need burial plan or has a legally binding designation as a burial fund;
    - e. The value of any burial space held for the purpose of providing a place for the burial of the person, a spouse, or any other member of the immediate family;
    - f. \$1,500 of the equity value of an asset that has a legally binding designation as a burial fund or a revocable burial arrangement if there is no irrevocable burial arrangement;
    - g. During the time a person remains continuously eligible, all appreciation in the value of the assets in subsection (C)(4)(f) will be disregarded; and
    - h. The amount of a payment refunded by a nursing facility after ALTCS approval is only excluded for six months beginning with the month the refund was received. The Administration shall evaluate the refund in accordance with R9-28-409 if transferred without receiving something of equal value.
- D.** For an institutionalized spouse, a resource disregard is allowed under 42 U.S.C. 1396r-5(c).
- E.** Trusts are evaluated in accordance with federal and state laws to determine eligibility.
- F.** A person is not eligible for long-term care services if countable resources exceed the following limits:
1. For a SSI-related person identified in subsection (B), the limit is \$2,000 or \$3,000 per couple under 20 CFR 416.1205.
  2. For a person eligible under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII), there is no resource limit.
- G.** A person shall provide information and verification necessary to determine the countable value of resources.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

**R9-28-408. Income Criteria for Eligibility**

- A.** The following Medicaid-eligible persons shall be deemed to meet the resource requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.
1. A person receiving Supplemental Security Income (SSI);
  2. A person receiving Title IV-E Foster Care Maintenance Payments; or
  3. A person receiving Title IV-E Adoption Assistance.
- B.** If a person's ALTCS eligibility is most closely related to SSI and the person is not included in subsection (A), the Administration shall count the income described in 42 U.S.C. 1382a and 20 CFR 416 Subpart K to determine eligibility with the following exceptions:
1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are also excluded in determining gross income to determine eligibility;
  2. Income of the parent or spouse of a minor child is counted as part of income under 42 CFR 435.602, except that the income of the parent or spouse is disregarded for the month the person is institutionalized;
  3. In-kind support and maintenance, under 42 U.S.C. 1382a(a)(2)(A), are excluded for both net and gross income tests;
  4. The income exceptions under A.A.C. R9-22-1503(B) apply to the net income test; and
  5. Income described in subsection (D) is excluded.
- C.** For a person whose eligibility is determined under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), or 42 U.S.C. 1396a(a)(10)(A)(i)(VII), the methodology in A.A.C. R9-22-1420 through R9-22-1426 is used to determine eligibility in accordance with 42 CFR 435.602. Income standards are then applied as described in A.A.C. R9-22-1428.
- D.** The following are income exceptions:
1. Disbursements from a trust are considered in accordance with federal and state law; and
  2. For an institutionalized spouse, a person defined in 42 U.S.C. 1396r-5(h)(1), income is calculated in accordance with 42 U.S.C. 1396r-5(b).
- E.** As a condition of eligibility for ALTCS, countable income shall be less than or equal to the following limits:
1. For a person in either the 217 or 236 coverage group specified in R9-28-402(B), 300 percent of the FBR;
  2. For a person or a couple in the SSI-related 210 coverage group specified in R9-28-402(B), 100 percent of the FBR;
  3. For a person who is under 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII) and is:
    - a. A child who is at least age six but less than age 19; 100 percent of the FPL, adjusted by household size;
    - b. A child age one through five, 133 percent of the FPL, adjusted by household size;
    - c. A child less than age one, 140 percent of the FPL, adjusted by household size; or
    - d. A pregnant woman, 150 percent of the FPL, adjusted by household size.
- F.** The Director shall determine the amount a person shall pay for the cost of ALTCS services and the post-eligibility treatment of income (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. The Director shall consider the following in determining the share-of-cost:
1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are excluded in determining share-of-cost.
  2. SSI benefits paid under 42 U.S.C. 1382(e)(1)(E) and (G) to a person who receives care in a hospital or nursing facility are not included in calculating the share-of-cost.
  3. The share-of-cost of a person with a spouse is calculated as follows:
    - a. If an institutionalized person has a community spouse under 42 U.S.C. 1396r-5(h), share-of-cost is calculated under R9-28-410 and 42 U.S.C. 1396r-5(b) and (d); and
    - b. If an institutionalized person does not have a community spouse, share of cost is calculated solely on the income of the institutionalized person.
  4. Income assigned to a trust is considered in accordance with federal and state law.
  5. The following expenses are deducted from the share-of-cost of an eligible person to calculate the person's share-of-cost:
    - a. A personal-needs allowance equal to 15 percent of the FBR for a person residing in a medical institution for a full calendar month. A personal-needs allowance equal to 300 percent of the FBR for a person who receives or intends to receive HCBS or who resides in a medical institution for less than the full calendar month;
    - b. A spousal allowance, equal to the FBR minus the income of the spouse, if a spouse but no children remain at home;
    - c. A family allowance equal to the standard specified in Section 2 of the AFDC State Plan as it existed on July 16, 1996 for the number of family members minus the income of the family members if a spouse and children remain at home;
    - d. Expenses for the medical and remedial care services listed in subsection (6) if the expenses have not been paid or are not subject to payment by a third-party, the person still has the obligation to pay the expense, and one of the following conditions is met:
      - i. The expense represents a payment made and reported to the Administration during the application period or a payment reported to the Administration no later than the end of the month following the month in which the payment occurred and the expense has not previously been allowed a share-of-cost deduction; or
      - ii. The expense represents the unpaid balance of an allowed, noncovered medical or remedial expense, and the expense has not been previously a share-of-cost deduction;
    - e. An amount determined by the Director for the maintenance of a single person's home for not longer than six months if a physician certifies that the person is likely to return home within that period; or
    - f. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement; and
  6. In the post-eligibility calculation of income:
    - a. The Administration recognizes that the following medical and remedial care services are not covered under the Title XIX State Plan, nor covered by a program contractor for a person determined to need institutional services under this Article when the medical or remedial care services are medically necessary for the person:
      - i. Nonemergency dental services for a person who is age 21 or older;

- ii. Hearing aids and hearing aid batteries for a person who is age 21 or older;
  - iii. Nonemergency eye care and prescriptive lenses for a person who is age 21 or older;
  - iv. Chiropractic services, including treatment for subluxation of the spine, demonstrated by x-ray;
  - v. Orthognathic surgery for a person who is age 21 or older; or
  - b. On a case-by-case basis, other noncovered medically necessary services that a person petitions the Administration for and the Director approves.
- G.** A person shall provide information and verification of income under A.R.S. § 36-2934(G) and 20 CFR 416.203.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

#### R9-28-409. Transfer of Assets

- A.** The provisions in this Section apply to an institutionalized person who has, or whose spouse has, transferred assets and received less than the fair market value (uncompensated value) specified in A.R.S. § 36-2934(B) and 42 U.S.C. 1396p(c)(1)(A), August 10, 1993, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.
- B.** A person shall report transfer of assets. The Administration shall evaluate all transfers occurring during or after the look-back period under 42 U.S.C. 1396p(c)(1)(B), August 10, 1993, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments. The person shall provide verification of any transfer.
- C.** Certain transfers are permitted under 42 U.S.C. 1396p(c)(2), August 10, 1993, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.
- D.** If the Administration determines a disqualification period applies due to a transfer, and the person is otherwise eligible, the person may remain eligible for ALTCS acute care services but shall be disqualified for receiving ALTCS coverage under 42 U.S.C. 1396p(c)(1)(C), August 10, 1993, which is incorporated by reference and on file with the Administration and the Secretary of State. This incorporation contains no future editions or amendments.
- E.** The period of disqualification for transfers shall be computed by dividing the cumulative uncompensated value of the transferred assets by the average cost for a private pay patient for nursing care services at the time of application.
- 1. For single or multiple transfers occurring in the same calendar month, the sum of all uncompensated value shall be divided by the monthly private pay rate. Disregarding fractions, the result of this calculation equals the number of months of ineligibility.
  - 2. For multiple transfers occurring in different calendar months, the total uncompensated value for each transfer of assets shall be determined under subsection (E)(1) but, if the periods of ineligibility overlap, the period of ineligibility shall run consecutively. Fractions are disregarded at the end of the entire period.
  - 3. For multiple transfers occurring in different months, the total uncompensated value for each transfer shall be

determined under subsection (E)(1), but if the periods of ineligibility do not overlap, each period of ineligibility shall be treated under subsection (E)(1).

- F.** Transfers of assets for less than fair market value are presumed to have been made to establish eligibility for ALTCS services.
- G.** Rebuttal of disqualification.
- 1. A person found ineligible for ALTCS services by reason of a transfer of assets for uncompensated value shall have the right to rebut the disqualification under 42 U.S.C. 1936p(c)(2)(C), August 10, 1993, incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.
  - 2. The person shall have the burden of rebutting the presumption.
  - 3. If a person rebuts a transfer on the basis of debt repayment, the Administration shall determine the validity of the debt under A.R.S. § 44-101.
- H.** Undue hardship. A period of disqualification for ALTCS services due to a transfer may be waived by the Director if the person is otherwise eligible and a substantial showing is made by clear and convincing evidence that:
- 1. The person is unable to obtain necessary medical care without ALTCS eligibility, and
  - 2. Is in imminent danger of death.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).

#### R9-28-410. Community Spouse

- A.** The methodology in this Section applies to an institutionalized person who has a community spouse.
- B.** If the institutionalized person's most current period of continuous institutionalization began on or after September 30, 1989, the Administration shall use the methodology for the treatment of resources under 42 U.S.C. 1396r-5(c).
- 1. The following resource criteria shall be used in addition to the criteria specified in R9-28-407 to be eligible:
    - a. Resources owned by a couple at the beginning of the first continuous period of institutionalization from and after September 30, 1989, shall be computed from the first day of institutionalization. The total value of resources owned by the institutionalized spouse and the community spouse, and a spousal share equal to one-half of the total value, are computed under 42 U.S.C. 1396r-5(c)(1).
    - b. The Community Spouse Resource Reduction (CSRDR) is calculated under 42 U.S.C. 1396r-5(f)(2).
    - c. The CSRDR is subtracted from the total resources of the couple to determine the amount of the couple's resources considered available to the institutionalized spouse at the time of application under 42 U.S.C. 1396r-5(c)(2).
      - i. Resources in excess of the CSRDR must be equal to or less than the standard for a person specified in R9-28-407.
      - ii. The CSRDR is allowed as a deduction for 12 consecutive months beginning with the first month in which the institutionalized spouse is eligible for ALTCS benefits. Beginning with the 13th month, the separate property of the institutionalized spouse must be within the resource standard for a person specified in R9-28-407.
      - iii. If a person who was previously eligible for ALTCS as an institutionalized person with a

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

- community spouse reapplies for ALTCS after a break in institutionalization of more than 30 days, the CSRSD will be allowed as a deduction from resources for a 12-month period in addition to the period in subsection (c)(ii).
2. Resources are excluded as specified in R9-28-407, except that one vehicle is totally excluded regardless of its value, and any additional vehicles are included using equity value.
  3. The Director may grant eligibility if the Administration determines that a denial of eligibility would create an undue hardship for the institutionalized spouse.
- C.** This Section applies to the income eligibility and post-eligibility treatment of income beginning September 30, 1989, regardless of when the first period of institutionalization began.
1. Income payments are attributed to the institutionalized person and the community spouse under 42 U.S.C. 1396r-5(b)(2).
  2. Income is excluded as specified in R9-28-408.
  3. The institutionalized spouse's income eligibility is determined by combining the income of the institutionalized person and the community spouse and dividing by two. If the institutionalized person is not eligible using this method, the income eligibility shall be based on the income received in the person's name.
  4. The following allowances described in 42 U.S.C. 1396r-5(d)(1) and (2) are allowed as deductions from the institutionalized spouse's income in determining share-of-cost:
    - a. A personal-needs allowance specified in R9-28-408(f)(5)(a);
    - b. A community spouse monthly income allowance, but only to the extent that the institutionalized spouse's income is made available to or for the benefit of the community spouse;
    - c. A family allowance for each family member equal to one-third of the amount remaining after deducting the countable income of the family member from a minimum monthly-needs allowance (MMMNA);
    - d. An amount for medical or remedial services as specified in R9-28-408; and
    - e. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement.
- D.** Transfers.
1. The institutionalized spouse may transfer to any of the following an amount of resources equal to the CSRSD without affecting eligibility under 42 U.S.C. 1396r-5(f). The institutionalized spouse may transfer resources to:
    - a. The community spouse; or
    - b. Someone other than the community spouse if the resources are for the sole benefit of the community spouse.
  2. The institutionalized spouse is allowed a period of 12 consecutive months, beginning with the first month of eligibility, to transfer resources in excess of the resource standard in R9-28-407(E)(2) to the persons listed in subsection (D)(1).
  3. All other transfers by the institutionalized person or transfers by the community spouse are treated under the provisions in R9-28-409.
- E.** Specific hearing rights as described under 9 A.A.C. 34 apply to a person whose eligibility is determined under this Section.
1. The institutionalized spouse or the community spouse is entitled to a fair hearing if dissatisfied with the determination of any of the following:
    - a. The community spouse monthly income allowance,
    - b. The amount of monthly income allocated to the community spouse,
    - c. The computation of the spousal share of resources,
    - d. The attribution of resources, or
    - e. The CSRSD.
  2. The hearing officer may increase the amount of the MMMNA if either the community spouse or institutionalized spouse establishes that the community spouse needs income above the established MMMNA due to exceptional circumstances.
  3. The hearing officer may increase the amount of the CSRSD to allow the community spouse to retain enough resources to generate income to meet the MMMNA. The hearing officer may allow the community spouse to retain an amount of resources necessary to purchase a single premium life annuity that would furnish monthly income sufficient to bring the community spouse's total monthly income up to the MMMNA.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

**R9-28-411. Changes, Redeterminations, and Notices**

- A.** Reporting and verifying changes.
1. A person shall report to the ALTCS eligibility office the following changes for a person, a person's spouse, or a person's dependent children under 42 CFR 435.916:
    - a. A change of address;
    - b. An admission to or discharge from a medical facility, public institution, or private institution;
    - c. A change in the household's composition;
    - d. A change in income;
    - e. A change in resources;
    - f. A determination of eligibility for other benefits;
    - g. A death;
    - h. A change in marital status;
    - i. An improvement in the person's medical condition;
    - j. A change in school attendance;
    - k. A change in Arizona state residency;
    - l. A change in citizenship or alien status;
    - m. Receipt of an SSN under R9-28-405;
    - n. A transfer of assets under R9-28-409;
    - o. A change in trust income and disbursements in accordance with state and federal law;
    - p. A change in first- or third-party liability that may be responsible for payment of all or a portion of the person's medical costs;
    - q. A change in first-party medical insurance premiums;
    - r. A change in the household expenses used to calculate the community spouse monthly income allowance described in R9-28-410;
    - s. A change in the amount of the community spouse monthly income allowance that is provided to the community spouse by the institutionalized spouse under R9-28-410; and
    - t. Any other change that may affect the person's eligibility or share-of-cost.
  2. A change shall be reported either orally or in writing and shall include:
    - a. The name of the affected person;
    - b. The change;
    - c. The date the change happened;
    - d. The name of the person reporting the change; and

- e. The person's Social Security or case number, if known, under A.R.S. § 36-2934.
- 3. A person shall provide verification of changes upon request, under A.R.S. § 36-2934, if needed to redetermine eligibility or to re-calculate post-eligibility computation of income.
- 4. A person shall report anticipated changes in advance, as soon as the future event becomes known.
- 5. A person shall report other changes events within 10 days of the date the change occurred.
- B.** Processing of changes and redeterminations. A person's eligibility shall be redetermined at least one time every 12 months and when changes occur, under 42 CFR 435.916. A person's share-of-cost, specified in R9-28-408, shall be redetermined whenever a change occurs that may affect the post-eligibility computation of income.
- C.** Actions that may result from a redetermination or change. Processing a redetermination or change shall result in one of the following findings:
  - 1. No change in eligibility or the post-eligibility computation of income;
  - 2. Discontinuance of eligibility if a condition of eligibility is no longer met;
  - 3. Suspension of eligibility if a condition of eligibility is temporarily not met;
  - 4. A change in the post-eligibility computation of income and the person's share-of-cost; or
  - 5. A change in service from ALTCS to ALTCS acute care services, or from ALTCS acute care services to ALTCS, caused by changes in a person's living arrangement, specified in R9-28-406, or a transfer of assets specified in R9-28-409.
- D.** Notices.
  - 1. Contents of notice. The Administration shall issue a notice when an action is taken regarding a person's eligibility or computation of share-of-cost. The notice shall contain the following information:
    - a. A statement of the action being taken;
    - b. The effective date of the action;
    - c. The specific reason for the intended action;
    - d. The actual figures used in the eligibility determination and specify the amount by which the person exceeds income standards if eligibility is being discontinued because either a person's resources exceed the resource limit specified in R9-28-407(E), or a person's income exceeds the income limit specified in R9-28-408(E);
    - e. The specific law or regulation that supports the action, or a change in federal or state law that requires an action;
    - f. An explanation of a person's right to request an evidentiary hearing; and
    - g. An explanation of the date by which a request for hearing must be received so that eligibility or the current share-of-cost may be continued.
  - 2. Advance notice of changes in eligibility or share-of-cost. "Advance notice" means a notice that is issued to a person at least 10 days before the effective date of change, under 42 CFR 435.919. Except as specified in subsection (D)(3), advance notice shall be issued whenever the following adverse action is taken:
    - a. To discontinue or suspend eligibility if an eligible person no longer meets a condition of eligibility, either ongoing or temporarily;
    - b. To affect post-eligibility computation of income and increase a person's share-of-cost; or
    - c. To reduce benefits from ALTCS to ALTCS acute care services due to a change from a long-term care living arrangement to an acute care living arrangement, specified in R9-28-406(B), or due to a transfer with uncompensated value, specified in R9-28-409.
  - 3. Under 42 CFR 431.213, notice shall be issued to a person to discontinue eligibility or to increase the share-of-cost, no later than the effective date of action if:
    - a. A person provides a clear, written statement, signed by the person, that a person no longer desires services;
    - b. A person provides information that requires termination of eligibility or an increase in the share-of-cost and the person signs a clear written statement waiving advance notice;
    - c. A person cannot be located and mail sent to that person has been returned as undeliverable;
    - d. A person has been admitted to a public institution where the person is ineligible for ALTCS under R9-28-406; or
    - e. A person has been approved for Medicaid in another state;
    - f. The Administration has information that confirms the death of the person;
    - g. The person's primary care provider has prescribed a change in the level of medical care; or
    - h. The notice involves an adverse determination regarding the PAS, specified in A.R.S. § 36-2536.
- E.** Transitional. HCBS services may be provided to a person who is no longer at risk of institutionalization but who continues to require significant long-term care services under A.R.S. § 36-2936(D).

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).

#### R9-28-412. General Enrollment

- A.** Program contractors. The Administration shall enroll each ALTCS member with:
  - 1. An elderly and physically disabled (EPD) program contractor,
  - 2. The developmentally disabled (DD) program contractor,
  - 3. A tribal program contractor, or
  - 4. The AHCCCS fee-for-service program.
- B.** Enrollment choice. An ALTCS member may choose a program contractor:
  - 1. At the time of application, or
  - 2. If the ALTCS member establishes a home outside of the GSA.
- C.** Annual enrollment. If an ALTCS member is elderly or physically disabled and lives in a GSA served by more than one program contractor, a member may change to an available program contractor during the annual enrollment choice period.
- D.** A program contractor is responsible for the enrolled ALTCS member as described in R9-28-712, County-of-Fiscal Responsibility.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).



**R9-28-413. Enrollment with an EPD Program Contractor**

- A.** A member's enrollment with one EPD program contractor. The Administration shall enroll an ALTCS elderly or physically disabled member with the one EPD program contractor assigned to that GSA.
- B.** New member makes a choice of an EPD program contractor on or after October 1, 2000. The Administration shall provide a new member an opportunity to choose an EPD program contractor, if an ALTCS member is elderly or physically disabled, and lives in a GSA served by more than one EPD program contractor.
- C.** New member who makes no choice of an EPD program contractor on or after October 1, 2000. The Administration shall enroll an elderly or physically disabled new member that lives in a GSA with more than one EPD program contractor and who makes no choice of an EPD program contractor under the following:
  - 1. Criteria. The Administration will prioritize enrollment based on continuity of care and enroll a member with an EPD program contractor chosen under the following criteria, including but not limited to:
    - a. A member's living arrangement, and
    - b. A member's primary care practitioner.
  - 2. Algorithm. The Administration shall enroll a member through an algorithm as specified in contract, when a member has a choice of more than one EPD program contractor and the criteria in subsection (C)(1) does not apply.
- D.** A member enrolled with an EPD program contractor prior to October 1, 2000, and is enrolled in the system after October 1, 2000.
  - 1. Choice. The Administration shall request an existing member residing in a GSA with more than one EPD program contractor to choose an EPD program contractor.
  - 2. A member makes no choice. If a member makes no choice, the Administration will continue enrollment with a member's existing EPD program contractor. If that existing EPD program contractor is not awarded a bid, the member will be enrolled with an EPD program contractor as specified in Section (C).

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

**R9-28-414. Enrollment with the DD Program Contractor**

- A.** A member's DD program contractor. The Administration shall enroll a member with the DES Division of Developmental Disabilities as specified in A.R.S. § 36-2940, if the ALTCS member is eligible for services for the developmentally disabled services.
- B.** Indian on and off reservation. The Administration shall enroll an Indian ALTCS member who is developmentally disabled, with the DES Division of Developmental Disabilities. This enrollment shall be made whether the member is considered to be residing on or off reservation.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

**R9-28-415. Enrollment with a Tribal Program Contractor**

- A.** On-reservation. Notwithstanding R9-28-412, the Administration shall enroll a Native American ALTCS member who is elderly or physically disabled with the ALTCS tribal program contractor as specified in A.R.S. § 36-2932 if the person:
  - 1. Lives on-reservation of a tribe participating as an ALTCS tribal program contractor, or

- 2. Lived on-reservation of a tribe participating as an ALTCS tribal program contractor immediately prior to placement in an off-reservation NF or alternative HCBS setting.

- B.** Off-reservation. The Administration shall enroll a Native American ALTCS member who is elderly or physically disabled with an EPD program contractor under R9-28-413, if the member lives off-reservation, and does not have on-reservation status as specified in subsection (A)(2).

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

**R9-28-416. Enrollment with the FFS Program**

- A.** No tribal or EPD program contractor in GSA. The Administration shall enroll an ALTCS elderly or physically disabled member who resides in an area with no ALTCS tribal program contractor or EPD program contractor in the AHCCCS FFS program under A.R.S. § 36-2945.
- B.** Prior period coverage. The Administration shall enroll a member in AHCCCS fee-for-service program if a member is eligible for ALTCS services only during prior period coverage.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3).

**R9-28-417. Notification Requirements**

- A.** Administration responsibilities. The Administration shall notify a member's program contractor when a member is enrolled or disenrolled from the ALTCS program. The Administration shall include the following in the notification:
  - 1. The member's name,
  - 2. The member's identification number,
  - 3. The member's effective date of enrollment or disenrollment, and
  - 4. The member's share-of-cost on a monthly enrollment roster.
- B.** Program contractor's responsibilities. The program contractor shall notify the Administration if an ALTCS member has any change that may affect eligibility including but not limited to:
  - 1. A change in residential address,
  - 2. A change in medical or functional condition,
  - 3. A change in living arrangement including:
    - a. Alternative HCBS setting,
    - b. Home,
    - c. Nursing facility, or
    - d. Other living arrangement not specified in this subsection,
  - 4. Change in resource or income, or
  - 5. Death.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

**R9-28-418. Disenrollment**

The Administration shall disenroll an ALTCS member on the last day of the month following receipt of appropriate notification under R9-28-411 except:

- 1. The Administration shall disenroll an ALTCS member who dies. A member's last day of enrollment shall be the date of death.
- 2. The Administration may disenroll a member immediately if requested.

3. If ALTCS benefits have been continued pending an eligibility appeal decision and the discontinuance is upheld as specified in 9 A.A.C. 34, the Administration shall disenroll a member effective on the date of the hearing decision.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

### ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS

#### R9-28-501. Program Contractor and Provider Standards – Related Definitions

**Definitions.** The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Certification” means a voluntary process by which a federal or state regulatory entity grants recognition to a person, facility, or organization that has met certain qualifications specified by the regulatory entity, allowing the person, facility, or organization to use the word “certified” in a title or designation.

“Therapeutic leave” means that a member leaves an institutional facility for a period that does not exceed nine days per contract year.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). New Section made by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

#### R9-28-501.01. Pre-Existing Conditions

A program contractor shall comply with the pre-existing condition requirements in A.A.C. R9-22-502.

#### Historical Note

New Section made by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

#### R9-28-502. Long-term Care Provider Requirements

- A. A provider shall obtain any necessary authorization from the program contractor or the Administration for services provided to a member.
- B. A provider shall maintain and make available to a program contractor and to the Administration, financial, and medical records for not less than five years from the date of final payment, or for records relating to costs and expenses to which the Administration has taken exception, five years after the date of final disposition or resolution of the exception. The provider shall maintain records that meet uniform accounting standards and generally accepted practices for maintenance of medical records, including detailed specification of all patient services delivered, the rationale for delivery, and the service date.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (E) effective June 6, 1989 (Supp. 89-2). Amended effective December

8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

#### R9-28-503. Licensure and Certification for Long-term Care Institutional Facilities

- A. A nursing facility shall not provide services to a member unless the facility is licensed by Arizona Department of Health Services, Medicare- and Medicaid-certified, and meets the requirements in 42 CFR 442, as of October 1, 2004, and 42 CFR 483, as of October 1, 2004, incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- B. An ICF-MR shall not provide services to a member unless the ICF-MR is Medicaid-certified and meets the requirements in A.R.S. § 36-2939(B)(1) and 42 CFR 442, Subpart C, as of October 1, 2004, and 42 CFR 483, as of October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C. A nursing facility or ICF-MR that provides services to a member shall register as a provider with the Administration to receive reimbursement. The Administration shall not register a provider unless the provider meets the licensure and certification requirements of subsection (A) or (B).

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

#### R9-28-504. Standards of Participation, Licensure, and Certification for HCBS Providers

- A. A noninstitutional long-term care provider shall not register with the Administration unless the provider meets the requirements of the Arizona Department of Health Services’ rules for licensure, if applicable.
- B. Additional qualifications to provide services to a member:
  1. A community residential setting and a group home for a person with developmental disabilities shall be licensed by the appropriate regulatory agency of the state as described in A.A.C. R9-33-107 and A.A.C. R6-6-714;
  2. An adult foster care home shall be certified or licensed under 9 A.A.C. 10;
  3. A home health agency shall be Medicare-certified and licensed under 9 A.A.C. 10;
  4. A person providing a homemaker service shall meet the requirements specified in the contract between the person and the Administration;
  5. A person providing a personal care service shall meet the requirements specified in the contract between the person and the Administration;
  6. An adult day health care provider shall be licensed under 9 A.A.C. 10;
  7. A therapy provider shall meet the following requirements:
    - a. A physical therapy provider shall meet the requirements in 4 A.A.C. 24;
    - b. A speech therapist provider shall meet the applicable requirements under 9 A.A.C. 16, Article 2.

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

- c. An occupational therapy provider shall meet the requirements in 4 A.A.C. 43; and
- d. A respiratory therapy provider shall meet the requirements in 4 A.A.C. 45;
- 8. A respite provider shall meet the requirements specified in contract;
- 9. A hospice provider shall be Medicare-certified and licensed under 9 A.A.C. 10;
- 10. A provider of home-delivered meal service shall comply with the requirements in 9 A.A.C. 8;
- 11. A provider of non-emergency transportation shall be licensed by the Arizona Department of Transportation, Motor Vehicle Division;
- 12. A provider of emergency transportation shall meet the licensure requirements in 9 A.A.C. 13;
- 13. A day care provider for the developmentally disabled under A.R.S. § 36-2939 shall meet the licensure requirements in 6 A.A.C. 6;
- 14. A habilitation provider shall meet the requirements in A.A.C. R6-6-1523 or the therapy requirements in this Section;
- 15. A service provider, other than a provider specified in subsections (B)(1) through (B)(14), approved by the Director shall meet the requirements specified in a program contractor's contract with the Administration;
- 16. A behavioral health provider shall have all applicable state licenses or certifications and meet the service specifications in A.A.C. R9-22-1205; and
- 17. An assisted living home or a residential unit shall meet the requirements as defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**R9-28-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services**

A provider shall not provide hospital services to a member unless the hospital is licensed by the Arizona Department of Health Services, and meets the requirements in 42 CFR 441 and 482, as of October 1, 2004, and 42 CFR 456, Subpart C, as of October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments. An Indian Health Service (IHS) hospital and a Veterans Administration hospital shall not provide services to a member unless accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

**R9-28-506. Requirements for Spouse as Paid Caregiver**

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

- 1. "Extraordinary care" means care that exceeds the range of activities that a spouse would ordinarily perform in the household on behalf of the ALTCS member if the member did not have a disability or chronic illness, and that is necessary to ensure the health and welfare of the member and avoid institutionalization.
- 2. "Personal care or similar services" means assistance provided to an ALTCS member with a disability or chronic illness to enable the member to perform Activities of Daily Living (ADL) or Instrumental Activities of Daily Living (IADL) that the member would normally perform for himself or herself if the member did not have a disability or chronic illness. Assistance may involve performing a personal care task for the member or cuing the member so that the member performs the task for himself or herself.
- B. As authorized by the Section 1115 Waiver, a member may choose to have personal care or similar services provided by the member's spouse as a paid caregiver if the following conditions and limitations are met:
  - 1. The member resides in his or her own home;
  - 2. The Administration or a Program Contractor offers the member the choice of a provider of personal care or similar services other than the member's spouse;
  - 3. The personal care or similar services is described in the member's plan of care prepared by the member's case manager;
  - 4. The case manager records at least annually in the member's plan of care the member's choice to have personal care or similar services provided by the member's spouse as a paid caregiver;
  - 5. The personal care or similar services provided by the spouse are extraordinary care;
  - 6. The spouse is one of the following:
    - a. Employed by a provider that subcontracts with the member's Program Contractor;
    - b. If the member is developmentally disabled, the spouse is either employed by a provider that subcontracts with the member's Program Contractor, or registered with AHCCCS as an independent provider; or
    - c. If the member is a Native American enrolled in FFS, the spouse is either employed by an AHCCCS registered provider or registered with AHCCCS as an independent provider;
  - 7. The spouse meets the training and other qualifications that apply to other providers of personal care or similar services registered with AHCCCS;
  - 8. The Program Contractor does not pay a spouse providing personal care or similar services at a rate that exceeds the rate that would be paid to a provider of personal care or similar services who is not a spouse and the Administration does not pay a spouse providing personal care or similar services at a rate that exceeds the capped fee-for-service payment for personal care or similar services; and
  - 9. A spouse providing personal care or similar services as a paid caregiver is not paid for more than 40 hours of services in a seven-day period.
- C. For a member who elects to have the member's spouse provide personal care or similar services as a paid caregiver, personal care or similar services in excess of 40 hours in a seven-day period are not covered. If a spouse elects to provide less than the hours authorized by the Administration or Program Contractor, the remaining hours of medically necessary personal care or similar services may be provided by another personal caregiver, but the total hours of care provided by the spouse

and any other personal caregiver shall not exceed 40 hours in a seven-day period.

- D. By electing to have the member's spouse provide personal care and similar services as a paid caregiver, the member is not precluded from receiving medically necessary, cost effective home and community based services other than personal care or similar services.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 3587, effective October 2, 2007 (Supp. 07-4).

#### R9-28-507. Program Contractor General Requirements

- A. To participate in the ALTCS program, through a program contractor or directly through the Administration, a provider of ALTCS-covered services shall be registered with the Administration.
- B. An ALTCS program contractor shall ensure that providers of service meet the requirements of this Article.
- C. Each ALTCS program contractor shall maintain member service records for five years, that include, at a minimum, a case management plan, medical records, encounter data, grievances, complaints, and service information for each ALTCS member.
- D. An ALTCS program contractor shall produce and distribute informational materials that are approved by the Administration to each enrolled ALTCS member or designated representative within 12 business days after the program contractor receives notification of enrollment from the Administration. The program contractor shall ensure that the informational materials include:
  1. A description of all covered services as specified in contract;
  2. An explanation of service limitations and exclusions;
  3. An explanation of the procedure for obtaining services, including a notice stating that the program contractor is liable only for those services authorized by an ALTCS member's case manager;
  4. An explanation of the procedure for obtaining emergency services;
  5. An explanation of the procedure for filing a grievance and appeal; and
  6. An explanation of when plan changes may occur as specified in contract.
- E. A subcontractor shall collect the member's share of cost and report to the program contractor the amount collected as specified in the subcontractor contract. The program contractor shall report the share of cost collected to the Administration.
- F. An ALTCS program contractor shall monitor a trust fund account for an institutionalized ALTCS member to verify that expenditures from the member's trust fund account are in compliance with federal regulations 42 U.S.C. 1396p(d)(4) and A.R.S. § 36-2934.01.
- G. A program contractor shall ensure that an institutionalized ALTCS member transferred to an acute care facility to receive services is, whenever possible, returned to the original institution upon completion of acute care.
- H. A program contractor shall ensure that an institutionalized ALTCS member granted therapeutic leave is, whenever medically appropriate, returned to the same bed in the original institution upon completion of the therapeutic leave.
- I. A program contractor shall ensure that services are paid under A.A.C. R9-22-705.
- J. A program contractor shall comply with the marketing provisions in A.A.C. R9-22-504.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

#### R9-28-508. Self-directed Attendant Care (SDAC)

- A. For purposes of this Article the following terms are defined:
  - "Competent member" means a person who is oriented, exhibits evidence of logical thought, and can provide directions.
  - "Fiscal and Employer Agent" or "FEA" is a company specified by the program contractor or the Administration in contract to serve as an employment/payroll processing center for attendant care workers employed by the member to provide SDAC services.
  - "Medically stable" means the member's skilled-care medical needs are routine and not subject to frequent change because of health issues.
  - "Personal care" means activities of daily life such as dressing, bathing, eating and mobility.
- B. In lieu of receiving other attendant care services a competent member who meets the requirements of A.R.S. § 36-2951 or the member's legal guardian may choose to employ through the FEA a person to provide Self-directed Attendant Care (SDAC) services. A paid caregiver described under R9-28-506 and a parent of a minor child shall not receive reimbursement for SDAC services.
- C. The attendant care worker chosen to provide SDAC services does not need to be a registered provider. The attendant care worker shall have, at a minimum, hands-on training in First Aid, CPR, Universal Precautions, and state and federal laws regarding privacy of health information or training of similar efficacy as approved by the Administration.
- D. The Administration or Program Contractor shall cover SDAC services only if the member resides in the member's home, and shall not cover SDAC services if the member is institutionalized or residing in an alternative residential setting. If the member has a legal guardian, the legal guardian shall be present when SDAC services are provided.
- E. A member who chooses to receive SDAC services is not precluded from receiving medically necessary, cost-effective home health services from other agencies or providers if the services provided are not duplicative of the specific attendant care or skilled service already received through the program contractor.
- F. A competent member or legal guardian may employ an SDAC attendant care worker to provide personal care, homemaker and general supervision services.
- G. A competent member, who is medically stable, or the member's legal guardian may employ an attendant care worker to also provide the following skilled services:
  1. Bowel care, including suppositories, enemas, manual evacuation, and digital stimulation;
  2. Bladder catheterizations (non-indwelling) that do not require a sterile procedure;
  3. Wound care (non-sterile);
  4. Glucose monitoring;
  5. Glucagon as directed by the health care provider;
  6. Insulin by subcutaneous injection only if the member is not able to self-inject;
  7. Permanent gastrostomy tube feeding; and

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

8. Additional services requested in writing with the approval of the Director and the Arizona State Board of Nursing.
- H. The Administration or program contractor shall not cover services under subsection (G) unless:
  1. For each SDAC attendant care worker employed by a member or legal guardian, a registered nurse licensed under A.R.S. Title 32, Chapter 15 visits the member and SDAC attendant care worker before a skilled service is provided. The registered nurse will assess, educate, and train the member and SDAC attendant care worker regarding the specific skilled service that the member requires; and
  2. The registered nurse determines in writing that the attendant care worker understands how and demonstrates the skill to perform the processes or procedures required to provide the specific skilled service.
7. Perform additional monitoring of a member with rehabilitation potential and whose condition is fragile or unstable, whose case management plan is marginally cost effective, or whose use of medical and hospital services is unusual;
8. Arrange behavioral health services, if necessary. The case manager shall have initial and quarterly consultation and collaboration with a behavioral health professional to review the treatment plan, unless the case manager meets the definition of a behavioral health professional under A.A.C. R9-20-101.
- C. A program contractor shall submit a service plan and other information related to the case management plan upon request to the Administration.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**R9-28-511. Quality Management/Utilization Management (QM/UM) Requirements**

A program contractor shall:

1. Comply with all requirements specified in A.A.C. R9-22-522; and
2. Submit a quarterly utilization control report within time lines specified in contract, and meet the requirements in 42 CFR 456 Subparts C, D, and F, October 1, 2004, incorporated by reference in R9-28-505.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**R9-28-512. Expired****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

**R9-28-513. Program Compliance Audits**

The Administration shall meet the requirements specified under A.A.C. R9-22-521 for a program contractor.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**R9-28-514. Release of Safeguarded Information by the Administration and Contractors**

The Administration, program contractors, providers, and noncontracting providers shall meet the requirements specified under A.A.C. R9-22-512 for an ALTCS applicant, or member.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). New Section made by final rulemaking at 16 A.A.R. 2386, effective January 16, 2011 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 2344, effective November 11, 2012 (Supp. 12-3).

**R9-28-509. Reserved****R9-28-510. Case Management**

- A. A program contractor shall assign to each member a case manager to identify, plan, coordinate, monitor, and reassess the need for and provision of long-term care services.
- B. A case manager shall:
  1. Ensure that appropriate ALTCS placement and services are provided for a member within 30 days of enrollment;
  2. Develop a service plan by:
    - a. Completing a case management plan when a member is enrolled in ALTCS and authorizing services for a member who continues to be financially and medically eligible for services;
    - b. Ensuring that a member participates in the preparation of the member's case management plan;
    - c. Specifying the services to be received by the member, including the duration, scope of services, units of service, frequency of service delivery, provider of services, and effective time period; and
    - d. Coordinating with the primary care provider in determining the necessary services for the member, including hospital and medical services;
  3. Submit a written justification to the case manager's supervisor to include HCBS in the case management plan if the services exceed 80 percent of the institutional cost;
  4. Manage a case management plan by:
    - a. Re-evaluating and revising the case management plan when the member transfers to another facility, transfers to a hospital, has a change in level of care; and
    - b. Monitoring receipt of services by a member;
  5. Assist the member to maintain or progress toward the highest level of functioning;
  6. Ensure that records are transferred when the member is transferred from a facility or provider to a new facility or provider;

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**R9-28-515. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

**ARTICLE 6. RFP AND CONTRACT PROCESS**

*Article 6, consisting of Sections R9-28-601 through R9-28-610, repealed; new Article 6, consisting of Sections R9-28-601 through R9-28-608, adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).*

**R9-28-601. General Provisions**

- A. The Director has full operational authority to adopt rules for the RFP process and the award of contract under A.R.S. § 36-2944.
- B. The Administration shall follow the provisions under 9 A.A.C. 22, Article 6 for members, subject to limitations and exclusions under that Article, unless otherwise specified in this Chapter.
- C. The Administration shall award contracts under A.R.S. § 36-2932 to provide services under A.R.S. § 36-2939.
- D. The Administration is exempt from the procurement code under A.R.S. § 41-2501.
- E. The Administration and contractors shall retain all records relating to contract compliance for five years under A.R.S. § 36-2932 and dispose of the records under A.R.S. § 41-2550.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-602. RFP**

The ALTCS RFP for a program contractor serving members who are EPD shall meet the requirements of A.R.S. §§ 36-2944, A.R.S. § 36-2939, A.A.C. R9-22-602, and Articles 2 and 11 of this Chapter.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-603. Contract Award**

The Administration shall award a contract under A.R.S. § 36-2944 and A.A.C. R9-22-603.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8,

2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-604. Contract or Proposal Protests; Appeals**

Contract or proposal protests or appeals shall be under A.A.C. R9-22-604 and 9 A.A.C. 34.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2502, effective November 13, 2012 (Supp. 12-3).

**R9-28-605. Waiver of Contractor's Subcontract with Hospitals**

A contractor's subcontract with hospitals may be waived under A.A.C. R9-22-605.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-606. Contract Compliance Sanction**

- A. The Administration shall follow sanction provisions under A.A.C. R9-22-606.
- B. The Administration shall apply remedies found in 42 CFR 488, Subpart F, effective January 1, 2012, incorporated by reference and on file with the Administration and the Office of the Secretary of State, for a nursing facility that does not meet requirements of participation under 42 U.S.C. 1396r. This incorporation by reference contains no future editions or amendments.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2502, effective November 13, 2012 (Supp. 12-3).

**R9-28-607. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-608. Repealed****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

repealed by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

**R9-28-609. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

**R9-28-610. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 1, 1993 (Supp. 93-1). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

**ARTICLE 7. STANDARDS FOR PAYMENTS****R9-28-701. Standards for Payment Related Definitions**

Definitions. In this Article, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, the following phrase has the following meaning unless the context of the Article explicitly requires another meaning:

“County of fiscal responsibility” means the county that is financially responsible for the state’s share of ALTCS funding.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3).

**R9-28-701.10. General Requirements**

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

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

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-702. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8

A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3244, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-703. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-704. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-705. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-706. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (A) and (B) effective June 6, 1989 (Supp. 89-2). Amended effective April 25, 1990 (Supp. 90-2). Amended effective November 5, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 10 A.A.R. 4658, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3852, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

**R9-28-707. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

*Editor’s Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure*

*Act which means that the amendment was not reviewed by the Governor's Regulatory Review Council; the agency did not submit a notice of proposed rulemaking for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rulemaking; and the Attorney General has not certified the rule. This Section was subsequently amended through the regular rulemaking process.*

#### **R9-28-708. Repealed**

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 26, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended by final rulemaking at 11 A.A.R. 3852, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

#### **R9-28-709. Repealed**

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (B) effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

#### **R9-28-710. Repealed**

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (C) and (D) effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

#### **R9-28-711. Repealed**

##### **Historical Note**

Adopted effective November 5, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

#### **R9-28-712. County of Fiscal Responsibility**

##### **A. General requirements.**

1. The Administration shall determine the county of fiscal responsibility under A.R.S. § 36-2913 for an applicant or member who is elderly or physically disabled.
2. A program contractor shall cover services and provisions specified in 9 A.A.C. 22, Articles 2 and 7 and Article 11 of this Chapter.

##### **B. Criteria for determining county of fiscal responsibility for an applicant.**

1. If the applicant resides in the applicant's own home, the county of fiscal responsibility is the county where the applicant currently resides.
2. This applies only if subsection (B)(3) does not apply. If the applicant is residing in a NF or alternative HCBS setting, the county of fiscal responsibility is the county in

which the applicant last resided in the applicant's own home.

3. If the applicant moves from another state directly into a NF or alternative HCBS setting in this state, the county of fiscal responsibility is the county in which the person currently resides.
4. If the applicant moves from the Arizona State Hospital (ASH) into a NF or alternative HCBS setting, or is an inmate of a public institution moving from the public institution into a NF or alternative HCBS setting, the county of fiscal responsibility is the county in which the applicant resided in the applicant's own home prior to admission to ASH or the public institution.

##### **C. Criteria for determining if there is a change in county of fiscal responsibility for a member moving from one county to another county.**

1. No change in the county of fiscal responsibility. There is no change in the county of fiscal responsibility for a member if:
  - a. The member moves from a NF to another NF in a different county,
  - b. The member moves from a NF to an alternative HCBS setting in a different county,
  - c. The member moves from an alternative HCBS setting to another alternative HCBS setting in a different county,
  - d. The member moves from an alternative HCBS setting to a NF in a different county,
  - e. The member moves from the member's own home to an alternative HCBS setting in a different county,
  - f. The member moves from the member's own home to a NF in a different county,
  - g. The member moves from a NF or alternative HCBS setting into ASH, or
  - h. The member moves from ASH to a NF or alternative HCBS setting.
2. Change in the county of fiscal responsibility. If a member moves from one county to another, the county of fiscal responsibility changes to the new county if the member moves from:
  - a. An alternative HCBS setting to the member's own home in a different county,
  - b. A NF to the member's own home in a different county,
  - c. The member's own home to the member's own home in a different county, or
  - d. ASH to the member's own home.
3. Transfers between program contractors. The county of fiscal responsibility changes if the Administration transfers a member from one program contractor to a different program contractor and if:
  - a. Both program contractors agree, or
  - b. The Administration determines that it is in the best interest of the member.

##### **Historical Note**

Adopted effective November 4, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3).

#### **R9-28-713. Repealed**

##### **Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemak-



ing at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

#### **R9-28-714. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

#### **R9-28-715. Repealed**

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

### **ARTICLE 8. TEFRA LIENS AND RECOVERIES**

#### **R9-28-801. Definitions Related to TEFRA Liens**

In addition to the definitions in A.R.S. §§ 36-2901 and 36-2931, 9 A.A.C. 22, Article 1, and 9 A.A.C. 28, Article 1, the following definitions apply to this Article:

“Consecutive days” means days following one after the other without an interruption resulting from a discharge.

“File” means the date that AHCCCS receives a request for a State Fair Hearing under R9-28-805, as established by a date stamp on the request or other record of receipt.

“Home” means property in which a member has an ownership interest and that serves as the member’s principal place of residence. This property includes the shelter in which a member resides, the land on which the shelter is located, and related outbuildings.

“Recover” means that AHCCCS takes action to collect from a claim.

“TEFRA lien” means a lien under 42 U.S.C. 1396p of the Tax Equity and Fiscal Responsibility Act of 1982.

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-801.01. TEFRA Liens – General**

Purpose. The purpose of TEFRA is to allow AHCCCS to file a lien on an AHCCCS member’s interest in any real property before the member is deceased, including but not limited to life estates and beneficiary deeds.

##### **Historical Note**

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-802. TEFRA Liens – Affected Members**

- A. Except for members under R9-28-803, AHCCCS shall file a TEFRA lien against the real property of all members who are:
1. Receiving ALTCS services,
  2. 55 years of age or older, and
  3. Permanently institutionalized.

- B. A rebuttable presumption exists that a member is permanently institutionalized if the member has continually resided in a nursing facility, ICF/MR, or other medical institution defined in 42 CFR 435.1010 for 90 or more consecutive days. A member may rebut the presumption by providing a written opinion from a treating physician, rendered to a reasonable degree of medical certainty, that the member’s condition is likely to improve to the point that the member will be discharged from the medical institution and will be capable of returning home by a date certain.

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-803. TEFRA Liens – Prohibitions**

AHCCCS shall not file a TEFRA lien against a member’s home if one of the following individuals is lawfully residing in the member’s home:

1. Member’s spouse;
2. Member’s child who is under the age of 21;
3. Member’s child who is blind or disabled under 42 U.S.C. 1382c; or
4. Member’s sibling who has an equity interest in the home and who was residing in the member’s home for at least one year immediately before the date the member was admitted to a nursing facility, ICF/MR, or other medical institution as defined under 42 CFR 435.1010.

##### **Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-804. TEFRA Liens – AHCCCS Notice of Intent**

- A. Time-frame. At least 30 days before filing a TEFRA lien, AHCCCS shall send the member or member’s representative a Notice of Intent.
- B. Content of the Notice of Intent. The Notice of Intent shall include the following information:
1. A description of a TEFRA lien and the action that AHCCCS intends to take,
  2. How a TEFRA lien affects a member’s property,
  3. The legal authority for filing a TEFRA lien,
  4. The time-frames and procedures involved in filing a TEFRA lien, and
  5. The member’s right to request an exemption.
- C. Request for exemption. A member or a member’s representative may request an exemption. To request an exemption the member or the member’s representative shall submit a written statement to AHCCCS within 30 days from the receipt of the Notice of Intent describing the factual basis for a claim that the property should be exempt from placement of a TEFRA lien or from recovery of lien based on R9-28-802, R9-28-803, or R9-

28-806. AHCCCS shall respond to the member or member's representative in writing within 30 days of receiving a request for exemption, unless the parties mutually agree to a longer period of time.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Section repealed effective August 11, 1997 (Supp. 97-3). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-805. TEFRA Liens and Estate Recovery – Member's Request for a State Fair Hearing**

- A. If the member or member's representative does not request an exemption under R9-28-804(C), the Administration shall send the member or representative a Notice of TEFRA Lien. The member or representative may file a request for a State Fair Hearing within 30 days of the receipt of the Notice of TEFRA Lien.
- B. If the member requests an exemption and the request is denied, the Administration shall send the member or representative a Denial of a Request for Exemption. The member or representative may file a request for a State Fair Hearing within 30 days of the receipt of the Denial of Request for Exemption. After the 30-day time-frame to file a State Fair Hearing, the member or representative is sent a Notice of a TEFRA Lien.
- C. Hearings regarding TEFRA liens shall be conducted under 9 A.A.C. 34.

#### Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-806. TEFRA Liens – Recovery**

- A. AHCCCS shall seek to recover a TEFRA lien upon the sale or transfer of the real property subject to the lien. However, AHCCCS shall not seek to recover the TEFRA lien or attempt recovery against any real property subject to the TEFRA lien so long as the member is survived by the member's:
  1. Spouse;
  2. Child under the age of 21; or
  3. Child who receives benefits under either Title II or Title XVI of the Social Security Act as blind or disabled, as defined under 42 U.S.C. 1382c.
- B. AHCCCS shall not seek to recover a TEFRA lien on an individual's home if the member is survived by:
  1. A sibling of the member who currently resides in the deceased member's home and who was residing in the member's home for a period of at least one year immediately before the date of the member's admission to the nursing facility, ICF/MR, or other medical institution as defined under 42 CFR 435.1010; or
  2. A child of the member who resides in the deceased member's home and who:
    - a. Was residing in the member's home for a period of at least two years immediately before the date of the member's admission to the nursing facility, ICF/MR, or other medical institution as defined under 42 CFR 435.1010; and
    - b. Provided care to the member that allowed the member to reside at home rather than in an institution.
- C. To determine whether a child of the member provided care under subsection (B)(2), AHCCCS shall require the following information:

1. A physician's written statement that describes the member's physical condition and service needs for the previous two years before the member's death;
2. Verification that the child actually lived in the member's home;
3. A written statement from the child providing the services that describes and attests to the services provided;
4. A written statement, if any, made by the member prior to death regarding the services received; and
5. A written statement from physician, friend, or relative as witness to the care provided.

#### Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-807. TEFRA Liens – Release**

AHCCCS shall issue a release of a TEFRA lien within 30 days of:

1. Satisfaction of the lien;
2. Notice that the member has been discharged from the nursing facility, ICF/MR, or other medical institution, defined under 42 CFR 435.1010, and the member has returned home and is physically residing in the home with the intention of remaining in the home. Discharge to an alternative HCBS setting defined at R9-28-101 does not constitute a return to the home; or
3. Notice of the member's death, if a lien has been filed on a life estate.

#### Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

### **ARTICLE 9. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**

#### **R9-28-901. Definitions**

In addition to the definitions in A.R.S. §§ 36-2901 and 36-2931, 9 A.A.C. 22, Article 1, and 9 A.A.C. 28, Article 1, the following definitions apply to this Article:

"Estate" has the meaning in A.R.S. § 14-1201.

"Member" means a person eligible for AHCCCS-covered services under A.R.S. Title 36, Chapter 29, Article 2.

"Recover" means that AHCCCS takes action to collect from a claim.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

#### **R9-28-902. General Provisions**

The provisions in A.A.C. R9-22-1002 apply to this Section.

#### Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended effective November 7, 1997 (Supp. 97-4). Amended by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-903. Cost Avoidance**

The provisions in A.A.C. R9-22-1003 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-904. Member Participation**

The provisions in A.A.C. R9-22-1004 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-905. Collections**

The provisions in A.A.C. R9-22-1005 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-906. AHCCCS Monitoring Responsibilities**

The provisions in A.A.C. R9-22-1006 apply to this Section.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-907. Notification for Perfection, Recording, and Assignment of AHCCCS Liens**

The provisions in A.A.C. R9-22-1007 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-908. Notification Information for Liens**

The provisions in A.A.C. R9-22-1008 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-909. Notification of Health Insurance Information**

The provisions in A.A.C. R9-22-1009 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-910. Recoveries**

AHCCCS shall recover funds paid before or after the death of a member for ALTCS benefits including: capitation payments, Medicare Parts A and B premium payments, coinsurance and deductibles paid by AHCCCS, fee-for-service payments, and reinsurance payments from:

1. The estate of a member who was 55 years of age or older when the member received benefits; or
2. The estate or the property of a member under A.R.S. §§ 36-2935, 36-2956, and 42 U.S.C. 1396p.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-911. Estate Recovery and Undue Hardship**

A. Any recovery of a claim by AHCCCS against a member's estate shall be made only after the death of the member's surviving spouse and only at a time:

1. When there exists no surviving minor child under age 21; and
2. When there exists no surviving child who receives benefits under either Title II or Title XVI of the Social Security Act because the child is blind or disabled as defined in 42 U.S.C. 1382c.

B. Undue hardship exemption request. A member's representative may request an undue hardship exemption. If the member's representative wishes to request an undue hardship exemption, the member's representative shall submit the request within 30 days from the receipt of the notification of the AHCCCS claim against the estate. The member's representative shall submit a written statement to AHCCCS describing the factual basis for a claim that the property should be exempt from estate recovery as provided under this Section. AHCCCS shall respond to the member or member's representative in writing within 30 days of receiving an undue hardship exemption request, unless the parties mutually agree to a longer period of time.

C. AHCCCS shall waive a claim against a member's estate because of undue hardship if any of the following situations exist:

1. The estate consists only of real property that is listed as residential property by the Arizona Department of Revenue or County Assessor's Office, and the heir or devisee:
  - a. Owns a business that is located at the residential property and:
    - i. The business was in operation at the residential property for at least 12 months preceding the death of the member,
    - ii. The business provides more than 50 percent of the heir's or devisee's livelihood, and
    - iii. The recovery of the property would result in the heir or devisee losing the heir's or devisee's means of livelihood; or
  - b. Currently resides in the residence and:
    - i. Resided there at the time of the member's death,
    - ii. Made the residence his or her primary residence for the 12 months immediately before the death of the member, and
    - iii. Owns no other residence; or
2. The estate consists only of personal property and:
  - a. The heir's or devisee's gross annual income for the household size is less than 100 percent of the Federal Poverty Level (FPL). New sources of income such as employment or Social Security that may not have yet been received are included in determining the household's annual gross income; and
  - b. The heir or devisee does not own a home, land, or other real property.

D. When the estate consists of both personal property and real property that qualify for the undue hardship exemption criteria under subsections (B) and (C), AHCCCS shall not grant an undue hardship waiver; however, AHCCCS shall adjust its claim to the value of the personal property.

E. AHCCCS shall exempt the following income, resources, and property of Native Americans (NA) and Alaska Natives (AN) from estate recovery:

1. Income and resources from tribal land and other resources currently held in trust and judgment funds from the Indian Claims Commission or U.S. Claims Court;

2. Ownership interest in trust or non-trust property;
3. Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources;
4. Any other ownership interests or rights in a property that has unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom; and
5. Income left as a remainder in an estate derived from any property listed in subsection (E)(1) through (4), that was either collected by a NA, or by a Tribe or Tribal organization and distributed to a NA.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-912. Partial Recovery**

AHCCCS shall use the following factors in determining whether to seek a partial recovery of funds when an heir or devisee does not meet the requirements of R9-28-911 and requests a partial recovery:

1. Financial and medical hardship to the heir or devisee;
2. Income of the heir or devisee and whether the heir or devisee's household gross annual income is less than 100 percent of the FPL;
3. Resources of the heir or devisee;
4. Value and type of assets;
5. Amount of AHCCCS' claim against the estate; and
6. Whether other creditors have filed claims against the estate or have foreclosed on the property.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

**R9-28-913. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-914. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-915. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-916. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-917. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-918. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**R9-28-919. Repealed****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

**ARTICLE 10. CIVIL MONETARY PENALTIES AND ASSESSMENTS****R9-28-1001. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims**

AHCCCS shall use the provisions in 9 A.A.C. 22, Article 11 for the determination and collection of penalties, assessments, and penalties and assessments.

**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective June 9, 1998 (Supp. 98-2). Amended by final rulemaking at 10 A.A.R. 3065, effective September 11, 2004 (Supp. 04-3).

**R9-28-1002. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective June 9, 1998 (Supp. 98-2).

**R9-28-1003. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective June 9, 1998 (Supp. 98-2).

**R9-28-1004. Repealed****Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Repealed effective June 9, 1998 (Supp. 98-2).

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES****R9-28-1101. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations.

1. Administration. The program shall be administered under A.R.S. § 36-2932.
2. Provision of services. Behavioral health services shall be provided under A.R.S. § 36-2939, this Chapter and 9 A.A.C. 22, Article 12, as applicable.

## Arizona Health Care Cost Containment System – Arizona Long-term Care System

3. Definitions. The definitions in A.A.C. R9-22-1201 and R9-22-102 apply to this Article, in addition to the following definitions:

“Case management” means the activities described in R9-28-510.

“Cost avoid” means the same as in A.A.C. R9-22-1201.

“Intergovernmental agreement” or “IGA” means an agreement for services or joint or cooperative action between the Administration and a tribal contractor.

“Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-28-1106.

“Tribal contractor” means a tribal organization (The Tribe) or urban Indian organization defined in 25 U.S.C. 1603 and recognized by CMS as meeting the requirements of 42 U.S.C. 1396d(b), that provides or is accountable for providing the services or delivering the items described in the intergovernmental agreement.

4. Enrollment of Native American member. The Administration shall enroll an EPD Native American member with a tribal contractor on a FFS basis if:
  - a. The member lives on-reservation of a Native American tribal organization that is an ALTCS tribal contractor, or
  - b. The member lived on-reservation of a Native American tribal organization that is an ALTCS tribal contractor immediately before placement in an off-reservation Nursing Facility or an alternative HCBS setting.
5. Case management. A tribal contractor shall provide case management services to FFS Native American members living on or off-reservation as delineated in the IGA.
6. Services. A tribal contractor or the Administration may authorize behavioral health services for FFS Native American members enrolled with a tribal contractor as delineated in the intergovernmental agreement.
7. Enrollment of Native American members off-reservation. Except as provided in R9-28-1101(4)(b), an EPD Native American who resides off-reservation shall be enrolled with an ALTCS program contractor to receive behavioral health services, including case management, under R9-28-415.
8. Enrollment of developmentally disabled Native American member. A developmentally disabled Native American member who resides on or off-reservation shall be enrolled with the Department of Economic Security’s Division of Developmental Disabilities under R9-28-414 and shall receive behavioral health services from the Department of Economic Security’s Division of Developmental Disabilities.
9. Reimbursement. For FFS Native Americans, the Administration is exclusively responsible for providing reimbursement for covered behavioral health services that are authorized by a tribal contractor or the Administration under the intergovernmental agreement as specified in this Article. A program contractor is exclusively responsible for providing reimbursement for covered behavioral health services that are authorized by a program contractor as specified in this Article.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Section

repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1102. Program or Tribal Contractor Responsibilities

- A. Program contractor. A program contractor shall provide behavioral health services to all enrolled members, including Native American members who are not enrolled with a tribal contractor under R9-28-1101.
- B. Tribal contractor. A tribal contractor shall provide behavioral health services to a Native American member who is enrolled with a tribal contractor as prescribed in R9-28-1101. When a tribal contractor determines that an EPD Native American member residing on a reservation needs behavioral health services under R9-28-415, the member shall receive services as authorized by the Administration or a tribal contractor under A.A.C. R9-22-1205 from any AHCCCS-registered provider.
- C. A program or tribal contractor shall cooperate when a transition of care occurs and ensure that medical records are transferred in accordance with A.R.S. §§ 36-2932, 36-509, and R9-28-514 when a member transitions from:
  1. A behavioral health provider to another behavioral health provider,
  2. A RBHA or TRBHA to a program contractor,
  3. A program or tribal contractor to a RBHA or TRBHA, or
  4. A program contractor to a tribal contractor or vice versa.
- D. The Administration, a tribal contractor, or a program contractor, as appropriate, shall authorize behavioral health services for Native American members.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1103. Eligibility for Covered Services

- A. Eligibility for covered services. A member determined eligible under A.R.S. § 36-2934 shall receive medically necessary covered services specified in A.A.C. R9-22-1205 and R9-28-202.
- B. Limitations. Behavioral health services are covered as specified in A.A.C. R9-22-201 and R9-22-1205.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at

6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### **R9-28-1104. General Service Requirements**

- A.** Services. Behavioral health services include both mental health and substance abuse services.
- B.** Prior authorization for emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
- C.** Prohibition against denial of payment. A program contractor, tribal contractor, or the Administration shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services to a member for the following reasons:
  1. On the basis of lists of diagnoses or symptoms,
  2. Prior authorization was not obtained, or
  3. The provider does not have a contract.
- D.** A program contractor or the Administration shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services provided to a member if the member received those services as directed by an employee of the program contractor or the Administration.
- E.** Grounds for denial for persons enrolled with a program or tribal contractor. A program contractor or the Administration may deny payment to an emergency behavioral health provider for emergency behavioral health services for reasons including but not limited to the following:
  1. The claim was not a clean claim,
  2. The claim was not submitted timely, or
  3. The provider failed to provide timely notification to the Administration or the program contractor, as applicable.
- F.** Notification to program contractor for persons enrolled with a program contractor. A hospital, emergency room provider, or fiscal agent shall notify a program contractor no later than the 11th day from presentation of the member enrolled with a program contractor for emergency inpatient behavioral health services.
- G.** Notification to Administration for Native Americans enrolled with a tribal contractor. A provider shall notify the Administration no later than 72 hours after a Native American member enrolled with a tribal contractor presents to a hospital for inpatient emergency behavioral health services.
- H.** Behavioral health evaluation. Subject to A.R.S. § 36-545.06 and R9-28-903, an emergency behavioral health evaluation is covered as an emergency service for a member under this Section if:
  1. Required to evaluate or stabilize an acute episode of mental disorder or substance abuse; and
  2. Provided by a qualified provider who is a behavioral health medical practitioner as defined in A.A.C. R9-22-1201, including a licensed psychologist, a licensed clinical social worker, a licensed professional counselor, or a licensed marriage and family therapist.
- I.** Post-stabilization requirements for members enrolled with a program contractor.
  1. A program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have received prior authorization from the program contractor.
  2. The program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have not received prior authorization from the program contractor, but are administered to maintain the member's stabilized condition within one hour of a request to the program contractor for prior authorization of further post-stabilization services;
- 3.** The program contractor is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have not received prior authorization from the program contractor, but are administered to maintain, improve, or resolve the member's stabilized condition if:
  - a. The program contractor does not respond to a request for prior authorization within one hour;
  - b. The program contractor authorized to give the prior authorization cannot be contacted; or
  - c. The representative of the program contractor and the treating physician cannot reach an agreement concerning the member's care and the program contractor's physician is not available for consultation. The treating physician may continue with care of the member until the program contractor's physician is reached, or:
    - i. A program contractor's physician with privileges at the treating hospital assumes responsibility for the member's care;
    - ii. A program contractor's physician assumes responsibility for the member's care through transfer;
    - iii. A representative of the program contractor and the treating physician reach agreement concerning the member's care; or
    - iv. The member is discharged.
- 4.** Transfer or discharge. The attending physician or the provider actually treating the member for the emergency behavioral health condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the program contractor.
- J.** Prior authorization for non-emergency behavioral health services. When a member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the program contractor's or the Administration's prior authorization requirements.
- K.** E.P.S.D.T. services. For Title XIX members under age 21, E.P.S.D.T. services shall include all medically necessary Title XIX-covered behavioral health services to a member.
- L.** Experimental services. Experimental services and services that are provided primarily for the purpose of research are not covered.
- M.** Gratuities. A service or an item, if furnished gratuitously to a member by a provider, is not covered and payment to a provider shall be denied.
- N.** GSA. Behavioral health services rendered to a member enrolled with a program contractor shall be provided within the program contractor's GSA except when:
  1. A primary care provider refers a member to another area for medical specialty care;
  2. A member's medically necessary covered service is not available within the GSA;
  3. A net savings in behavioral health service delivery costs can be documented by the program contractor for a member. Undue travel time or hardship shall be considered for a member or a member's family; or
  4. A member is placed by the program contractor in a NF or an Alternative HCBS setting located out of the program contractor's GSA, but remains enrolled with that program contractor.
- O.** Travel. If a member travels or temporarily resides outside of a program contractor's GSA, covered services are restricted to

emergency behavioral health care, unless authorized by the member's program contractor.

- P.** Non-covered services. If a member requests a behavioral health service that is not covered or is not authorized by a program contractor, the tribal contractor, or the Administration, the behavioral health service may be provided by an AHC-CCS-registered behavioral health service provider according to A.A.C. R9-22-702.
- Q.** Restrictions and limitations.
1. The restrictions, limitations, and exclusions in this Article do not apply to a program contractor that elects to provide a noncovered service.
  2. Room and board is not a covered service unless provided by the Administration or a program contractor in a Level 1, inpatient, sub-acute, or residential center under A.A.C. R9-22-1205.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993; amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective January 1, 1996; filed with the Office of the Secretary of State December 22, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1105. Scope of Behavioral Health Services

- A.** Scope of Services. The provisions of A.A.C. R9-22-1205 are the scope of behavioral health services for a member under this Article. A member in an institutional or Alternative HCBS setting as defined in R9-28-101 may receive covered behavioral health therapeutic home care services from a program contractor.
- B.** Applicability. References in A.A.C. R9-22-1205 to ADHS/DBHS apply to a program contractor.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 933, effective February 12, 2002

(Supp. 02-1). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1106. General Provisions and Standards for Service Providers

- A.** Applicability. The provisions of A.A.C. R9-22-1206 are the general provisions and standards for service providers. References in A.A.C. R9-22-1206 to ADHS/DBHS or to a RBHA apply to a program contractor.
- B.** Qualified service provider. A qualified behavioral health service provider shall:
1. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
  2. Register with the Administration as a behavioral health service provider; and
  3. Comply with all requirements under Article 5 and this Article.
- C.** Quality and utilization management.
1. Service providers shall cooperate with the program contractor's quality and utilization management programs and the Administration as under R9-28-511 and in contract.
  2. Service providers shall comply with applicable procedures under 42 CFR 456, incorporated by reference in A.A.C. R9-22-1206.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1107. General Provisions for Payment

- A.** Prior authorization. For ALTCS members enrolled with a program contractor, payment to a provider for behavioral health services that require prior authorization may be denied as specified in R9-22-705. References in A.A.C. R9-22-705 to a contractor apply to a program contractor.
- B.** For ALTCS FFS members, payment to a provider for behavioral health services that require prior authorization may be denied if a provider does not obtain prior authorization from a tribal contractor or the Administration, as applicable.
- C.** The Administration or a program contractor shall cost avoid any behavioral health service claims if the Administration or the program contractor establishes the probable existence of first-party liability or third-party liability.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### R9-28-1108. Repealed

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final

rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

#### ARTICLE 12. REPEALED

*Article 12, consisting of Section R9-28-1201, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 12 is now in 9 A.A.C. 34 (Supp. 04-1).*

#### R9-28-1201. Repealed

##### Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1).

#### ARTICLE 13. FREEDOM TO WORK

*Article 13, consisting of Sections R9-28-1301 through R9-28-1324, made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).*

#### R9-28-1301. General Freedom to Work Requirements

The Administration shall determine eligibility for AHCCCS medical services under Article 2 of this Chapter and A.A.C. R9-22-1901.

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

#### R9-28-1302. General Administration Requirements

The Administration shall comply with the confidentiality rule under A.A.C. R9-22-512(C).

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

#### R9-28-1303. Application for Coverage

- A. A person may apply by submitting an application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The provisions of A.A.C. R9-22-1406(B) and (D) apply to this Section.
- D. An applicant or representative who files an application may withdraw the application either orally or in writing. The Administration shall send an applicant withdrawing an application a denial notice under R9-28-1304.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5138, effective January 3, 2004 (Supp. 03-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

#### R9-28-1304. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action and:

1. If approved:
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and

- c. An explanation of the person's hearing rights specified in 9 A.A.C. 34; or
2. If denied, the information required by R9-28-401.01(G)(2).

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

#### R9-28-1305. Reporting and Verifying Changes

An applicant or member shall report and verify changes as described under R9-28-411(A), to the Administration, including any changes in the spouse's income that may affect the share of cost.

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

#### R9-28-1306. Actions that Result from a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility, share-of-cost, or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,
3. A change in the person's share-of-cost,
4. A change in premium amount, or
5. A change in the coverage group under which a person receives AHCCCS medical coverage.

##### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

#### R9-28-1307. Notice of Adverse Action

- A. The requirements under R9-28-411(D)(1) apply.
- B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:
  1. Discontinue eligibility,
  2. Increase a person's share-of-cost,
  3. Increase the premium amount, or
  4. Reduce benefits from ALTCS to acute care services.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
  1. A member provides a clearly written statement, signed by that member, that services are no longer wanted;
  2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that termination of eligibility or reduction of services will be the result of supplying the information and signs a written statement waiving advance notice;
  3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable. A member whose eligibility is discontinued under this subsection is subject to reinstatement of discontinued services under 42 CFR 431.231(d);
  4. A member has been admitted to a public institution where a person is ineligible for coverage;



## Arizona Health Care Cost Containment System – Arizona Long-term Care System

5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1308. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1309. Conditions of Eligibility**

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded,
  - b. The income of a spouse or other family members shall be disregarded, and
  - c. The deduction for a minor child shall not apply;
6. Reside in a living arrangement specified under R9-28-406(A);
7. Be determined as physically disabled by meeting the medical criteria under Article 3 of this Chapter; and
8. Comply with the member responsibility provisions under A.A.C. R9-22-1502(D) and (F).

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed; new Section made by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1310. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1311. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1312. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed

by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1313. Premium Requirements**

- A. As a condition of eligibility, an applicant or member shall:
  1. Pay the premium required under subsection (B).
  2. Not have any unpaid premiums that exceed the premium amount for one month.
- B. The Administration shall process premiums under 9 A.A.C. 31, Article 14 with the following exceptions:
  1. A member who has countable income:
    - a. Under \$500, the monthly premium payment shall be \$0.
    - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
  2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1314. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1315. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1316. Institutionalized Person**

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution and federal financial participation (FFP) is not available, or
2. Older than age 20 but younger than age 65 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by CMS.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1317. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1318. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1319. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group**

As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's income.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1321. Share of Cost**

The Director shall determine the amount a person shall pay for the cost of ALTCS services (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. Share of cost shall be calculated for people who reside in a medical institution for an entire calendar month under R9-28-408(G) and R9-28-410(C) except that the personal-needs allowance shall be increased by 50 percent of the member's earned income.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

**R9-28-1322. Repealed****Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

**R9-28-1323. Enrollment**

The Administration shall enroll members under R9-28-412 through R9-28-418.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

**R9-28-1324. Redetermination of Eligibility**

- A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance. The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement. If a member is no longer disabled under Article 3 of this Chapter, the Administration shall determine if the member is eligible under other coverage groups.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

This page intentionally left blank.

**TITLE 9. HEALTH SERVICES****CHAPTER 31. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
CHILDREN’S HEALTH INSURANCE PROGRAM**

*Editor’s Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-3).*

*Editor’s Note: Articles 1 through 13, and Article 16 were adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session. Although exempt from certain provisions of the rulemaking process, AHCCCS submitted a notice of docket opening with the Secretary of State for publication in the Arizona Administrative Register. Exemption from A.R.S. Title 41, Chapter 6 means AHCCCS was not required to submit these rules to the Governor’s Regulatory Review Council for review; they did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and they were not required to hold public hearings on these rules. Because this Chapter contains rules that are exempt from the regular rulemaking process, it is printed on blue paper.*

**ARTICLE 1. DEFINITIONS**

*Article 1, consisting of Sections R9-31-101 thru R9-31-116, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-101.	Location of Definitions
R9-31-102.	Scope of Services-related Definitions
R9-31-103.	Eligibility and Enrollment Related Definitions
R9-31-104.	Reserved
R9-31-105.	Repealed
R9-31-106.	Request for Proposal (RFP) Related Definitions
R9-31-107.	Repealed
R9-31-108.	Repealed
R9-31-109.	Reserved
R9-31-110.	Repealed
R9-31-111.	Reserved
R9-31-112.	Repealed
R9-31-113.	Repealed
R9-31-114.	Reserved
R9-31-115.	Reserved
R9-31-116.	Services for Native Americans Related Definitions

**ARTICLE 2. SCOPE OF SERVICES**

*Article 2, consisting of Sections R9-31-201 thru R9-31-216, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-201.	General Requirements
R9-31-202.	Reserved
R9-31-203.	Reserved
R9-31-204.	Inpatient General Hospital Services
R9-31-205.	Attending Physician, Practitioner, and Primary Care Provider Services
R9-31-206.	Organ and Tissue Transplantation Services
R9-31-207.	Dental Services
R9-31-208.	Laboratory, Radiology, and Medical Imaging Services
R9-31-209.	Pharmaceutical Services
R9-31-210.	Emergency Medical Services
R9-31-211.	Transportation Services
R9-31-212.	Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies
R9-31-213.	Health Risk Assessment and Screening Services
R9-31-214.	Reserved
R9-31-215.	Other Medical Professional Services
R9-31-216.	NF, Alternative HCBS Setting, or HCBS

**ARTICLE 3. ELIGIBILITY AND ENROLLMENT**

*Article 3, consisting of Sections R9-31-301 thru R9-31-310, adopted effective October 23, 1998, under an exemption from the Arizona Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-301.	General Requirements
R9-31-302.	Applications
R9-31-303.	Eligibility Criteria
R9-31-304.	Income Eligibility
R9-31-305.	Verification
R9-31-306.	Enrollment
R9-31-307.	Guaranteed Enrollment
R9-31-308.	Changes and Redeterminations
R9-31-309.	Newborn Eligibility
R9-31-310.	Notice Requirements

**ARTICLE 4. KIDSCARE II PROGRAM**

*Article 4, consisting of Section R9-31-401, made by exempt rulemaking at 18 A.A.R. 1141, effective May 1, 2012 (Supp. 12-2).*

*Article 4, consisting of Sections R9-31-401 through R9-31-407, repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).*

*Article 4, consisting of Sections R9-31-401 thru R9-31-407, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-401.	KidsCare II Program
R9-31-402.	Repealed
R9-31-403.	Repealed
R9-31-404.	Repealed
R9-31-405.	Repealed
R9-31-406.	Repealed
R9-31-407.	Repealed

**ARTICLE 5. GENERAL PROVISIONS AND STANDARDS**

*Article 5, consisting of Sections R9-31-501 thru R9-31-529, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-501.	General Provisions and Standards – Related Definitions
R9-31-502.	Pre-existing Conditions
R9-31-503.	Repealed
R9-31-504.	Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions
R9-31-505.	Repealed
R9-31-506.	Reserved
R9-31-507.	Repealed
R9-31-508.	Repealed
R9-31-509.	Transition and Coordination of Member Care
R9-31-510.	Repealed
R9-31-511.	Repealed
R9-31-512.	Release of Safeguarded Information
R9-31-513.	Repealed
R9-31-514.	Repealed

R9-31-515.	Reserved
R9-31-516.	Reserved
R9-31-517.	Reserved
R9-31-518.	Information to Enrolled Members
R9-31-519.	Reserved
R9-31-520.	Repealed
R9-31-521.	Repealed
R9-31-522.	Quality Management/Utilization Management (QM/UM) Requirements
R9-31-523.	Repealed
R9-31-524.	Repealed
R9-31-525.	Reserved
R9-31-526.	Reserved
R9-31-527.	Reserved
R9-31-528.	Reserved
R9-31-529.	Reserved

**ARTICLE 6. RFP AND CONTRACT PROCESS**

*Article 6, consisting of Section R9-31-601, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-601.	General Provisions
R9-31-602.	RFP
R9-31-603.	Contract Award
R9-31-604.	Contract or Proposal Protests; Appeals
R9-31-605.	Waiver of Contractor’s Subcontract with Hospitals
R9-31-606.	Contract Compliance Sanction

**ARTICLE 7. STANDARDS FOR PAYMENTS**

*Article 7, consisting of Sections R9-31-701 thru R9-31-717, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-701.	Standards for Payments Related Definitions
R9-31-701.10.	General Requirements
R9-31-702.	Repealed
R9-31-703.	Repealed
R9-31-704.	Repealed
R9-31-705.	Repealed
R9-31-706.	Reserved
R9-31-707.	Repealed
R9-31-708.	Reserved
R9-31-709.	Repealed
R9-31-710.	Repealed
R9-31-711.	Repealed
R9-31-712.	Reserved
R9-31-713.	Repealed
R9-31-714.	Repealed
R9-31-715.	Repealed
R9-31-716.	Repealed
R9-31-717.	Repealed
R9-31-718.	Repealed
R9-31-719.	Repealed

**ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R9-31-801 through R9-31-803 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).*

*Article 8, consisting of Sections R9-31-801 thru R9-31-804, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-801.	Repealed
R9-31-802.	Repealed
R9-31-803.	Repealed
R9-31-804.	Repealed
Exhibit A.	Repealed

**ARTICLE 9. REPEALED**

*Article 9, consisting of Section R9-31-901, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-901.	Repealed

**ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**

*Article 10, consisting of Sections R9-31-1001 and R9-31-1002, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-1001.	Definitions
R9-31-1002.	General Provisions
R9-31-1003.	Cost Avoidance
R9-31-1004.	Member Participation
R9-31-1005.	Collections
R9-31-1006.	AHCCCS Monitoring Responsibilities
R9-31-1007.	Notification for Perfection, Recording, and Assignment of Title XXI Liens
R9-31-1008.	Notification Information for Liens
R9-31-1009.	Notification of Health Insurance Information

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**

*Article 11, consisting of Sections R9-31-1101 thru R9-31-1104, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-1101.	Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims
R9-31-1102.	Repealed
R9-31-1103.	Repealed
R9-31-1104.	Repealed

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

*Article 12, consisting of Sections R9-31-1201 through R9-31-1207, repealed; new Article 12, consisting of Sections R9-31-1201 through R9-31-1208, adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4).*

*Article 12, consisting of Sections R9-31-1201 through R9-31-1207, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

Section	
R9-31-1201.	General Requirements
R9-31-1202.	ADHS and Contractor Responsibilities
R9-31-1203.	Eligibility for Covered Services
R9-31-1204.	General Service Requirements
R9-31-1205.	Scope of Behavioral Health Services
R9-31-1206.	General Provisions and Standards for Service Providers
R9-31-1207.	General Provisions for Payment
R9-31-1208.	Repealed

**ARTICLE 13. REPEALED**

*Article 13, consisting of Sections R9-31-1301 through R9-31-1309, repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).*

*Article 13, consisting of Sections R9-31-1301 thru R9-31-1309, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-1301. Repealed  
 R9-31-1302. Repealed  
 R9-31-1303. Repealed  
 R9-31-1304. Repealed  
 R9-31-1305. Repealed  
 R9-31-1306. Repealed  
 R9-31-1307. Repealed  
 R9-31-1308. Repealed  
 R9-31-1309. Repealed

**ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3**

*Article 14, consisting of Sections R9-31-1401 through R9-31-1406, adopted effective September 10, 1999, under an exemption from the Administrative Procedure Act (Supp. 99-3).*

**Section**

R9-31-1401. Purpose  
 R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of this Chapter  
 R9-31-1403. Repealed  
 R9-31-1404. Hardship Exemption for a Member who is a Child Determined Eligible Under Article 3 of This Chapter  
 R9-31-1405. Repealed  
 R9-31-1406. Repealed  
 R9-31-1407. Repealed  
 R9-31-1408. Repealed  
 R9-31-1409. Payment Due Date for Current Month  
 R9-31-1410. Payment Received Date  
 R9-31-1411. Past Due Payment  
 R9-31-1412. Payment Type  
 R9-31-1413. Returned Check  
 R9-31-1414. Payment In Advance  
 R9-31-1415. Reimbursement of a Premium  
 R9-31-1416. Allocation of Payment for an Eligible Member  
 R9-31-1417. Change in Premium Amount  
 R9-31-1418. Discontinuance for Failure to Pay Premium  
 R9-31-1419. Premium Payment During the Appeal and Request for Hearing Process  
 R9-31-1420. Payment of a Premium

**ARTICLE 15. RESERVED****ARTICLE 16. SERVICES FOR AMERICAN INDIANS**

*Article 16, consisting of Sections R9-31-1601 thru R9-31-1625, adopted effective October 23, 1998, under an exemption from the Administrative Procedure Act. (Supp. 98-4).*

**Section**

R9-31-1601. General Requirements  
 R9-31-1602. Repealed  
 R9-31-1603. Repealed  
 R9-31-1604. Repealed  
 R9-31-1605. Repealed  
 R9-31-1606. Repealed  
 R9-31-1607. Repealed  
 R9-31-1608. Repealed

R9-31-1609. Repealed  
 R9-31-1610. Repealed  
 R9-31-1611. Repealed  
 R9-31-1612. Repealed  
 R9-31-1613. Repealed  
 R9-31-1614. Repealed  
 R9-31-1615. Repealed  
 R9-31-1616. Repealed  
 R9-31-1617. Repealed  
 R9-31-1618. Repealed  
 R9-31-1619. Repealed  
 R9-31-1620. Repealed  
 R9-31-1621. Repealed  
 R9-31-1622. Repealed  
 R9-31-1623. Repealed  
 R9-31-1624. Repealed  
 R9-31-1625. Repealed

**ARTICLE 17. ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT**

*Article 17, consisting of Sections R9-31-1701 through R9-31-1724, made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).*

**Section**

R9-31-1701. General  
 R9-31-1702. Application  
 R9-31-1703. Parent Eligibility Criteria  
 R9-31-1704. Income  
 R9-31-1705. Citizenship  
 R9-31-1706. Residency  
 R9-31-1707. Social Security Number (SSN)  
 R9-31-1708. Age  
 R9-31-1709. Ineligibility for Title XIX  
 R9-31-1710. Institutionalized Person  
 R9-31-1711. Other Health Coverage  
 R9-31-1712. State Health Benefits  
 R9-31-1713. Prior Health Insurance Coverage  
 R9-31-1714. Repealed  
 R9-31-1715. Repealed  
 R9-31-1716. Verification  
 R9-31-1717. Assignment of Rights  
 R9-31-1718. Approval and Effective Date of Eligibility  
 R9-31-1719. Enrollment  
 R9-31-1720. Change and Redetermination  
 R9-31-1721. Denial of Eligibility  
 R9-31-1722. Discontinuance of Eligibility and Notice Requirements  
 R9-31-1723. Newborn Eligibility  
 R9-31-1724. Premium and Enrollment Fees  
 R9-31-1725. Appeal and Request for Hearing Process  
 R9-31-1726. Payment of Outstanding Premium and Enrollment Fees  
 R9-31-1727. Payment Due Date for Current Month  
 R9-31-1728. Payment Received Date  
 R9-31-1729. Past Due Payment  
 R9-31-1730. Payment Type  
 R9-31-1731. Returned Check  
 R9-31-1732. Payment In Advance  
 R9-31-1733. Reimbursement of a Premium  
 R9-31-1734. Allocation of Payment for an Eligible Member  
 R9-31-1735. Change in Premium Amount

**ARTICLE 1. DEFINITIONS****R9-31-101. Location of Definitions**

**A.** Location of definitions. Definitions applicable to 9 A.A.C. 31 are found in the following.

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

Definition	Section or Citation		
“ADHS”	R9-22-102	“IHS”	R9-31-116
“Administration”	A.R.S. § 36-2901	“IHS” or “Tribal Facility Provider”	R9-31-116
“Adverse action”	R9-34-102	“Information”	R9-31-103
“Aggregate”	R9-22-701	“Institution for Mental Diseases” or “IMD”	42 CFR 435.1010 and R9-22-102
“AHCCCS”	R9-31-101	“Inmate of a public institution”	42 CFR 435.1010
“AHCCCS registered provider”	R9-22-101	“Inpatient hospital services”	R9-31-101
“Ambulance”	A.R.S. § 36-2201	“License” or “licensure”	R9-22-101
“Applicant”	R9-31-101	“Medical record”	R9-22-101
“Application”	R9-31-101	“Medical review”	R9-31-107
“Behavior management service”	R9-31-1201	“Medical services”	R9-22-101
“Behavioral health evaluation”	R9-31-1201	“Medical supplies”	R9-22-102
“Behavioral health medical practitioner”	R9-31-1201	“Member”	A.R.S. § 36-2981
“Behavioral health professional”	R9-31-1201	“Mental disorder”	A.R.S. § 36-501
“Behavioral health service”	R9-31-1201	“Native American”	R9-31-101
“Behavioral health technician”	R9-31-1201	“New hospital”	R9-22-701
“Billed charges”	R9-22-701	“NF” or “nursing facility”	42 U.S.C. 1396r(a)
“Capital costs”	R9-22-701	“NICU”	R9-22-701
“Certified nurse practitioner”	R9-31-102	“Noncontracting provider”	A.R.S. § 36-2981
“Certified psychiatric nurse practitioner”	R9-31-1201	“Occupational therapy”	R9-22-102
“Child”	42 U.S.C. 1397jj	“Offeror”	R9-31-106
“Chronically ill”	A.R.S. § 36-2983	“Operating costs”	R9-22-701
“Clean claim”	A.R.S. § 36-2904	“Outlier”	R9-31-107
“Clinical supervision”	R9-22-102	“Outpatient hospital service”	R9-22-701
“CMDP”	R9-31-103	“Ownership change”	R9-22-701
“Continuous stay”	R9-22-101	“Partial care”	R9-22-1201
“Contract”	R9-22-101	“Peer group”	R9-22-701
“Contractor”	A.R.S. § 36-2901	“Pharmaceutical service”	R9-22-102
“Contract year”	R9-31-101	“Physical therapy”	R9-22-102
“Cost avoid”	R9-22-1201	“Physician”	A.R.S. § 36-2981
“Cost-to-Charge”	R9-22-701	“Post stabilization care services”	42 CFR 438.114
“Covered charges”	R9-31-107	“Practitioner”	R9-22-102
“Covered services”	R9-22-102	“Pre-existing condition”	R9-31-501
“CPT”	R9-22-701	“Prepaid capitated”	A.R.S. § 36-2981
“CRS”	R9-31-103	“Prescription”	R9-22-102
“Date of eligibility posting”	R9-22-701	“Primary care physician”	A.R.S. § 36-2981
“Day”	R9-22-101	“Primary care practitioner”	A.R.S. § 36-2981
“De novo hearing”	42 CFR 431.201	“Primary care provider (PCP)”	R9-22-102
“Dentures” and “Denture services”	R9-22-102	“Primary care provider services”	R9-22-102
“DES”	R9-31-103	“Prior authorization”	R9-22-102
“Determination”	R9-31-103	“Program”	A.R.S. § 36-2981
“Diagnostic services”	R9-22-102	“Proposal”	R9-31-106
“Director”	A.R.S. § 36-2981	“Prospective rates”	R9-22-701
“DME”	R9-22-102	“Provider”	A.R.S. § 36-2931
“DRI inflation factor”	R9-22-701	“Psychiatrist”	A.R.S. § 36-501
“Emergency medical condition”	42 U.S.C. 1396b(v)	“Psychologist”	A.R.S. § 36-501
“Emergency medical services for the non-FES”		“Psychosocial rehabilitation”	R9-22-102
member	R9-22-102	“Qualified alien”	A.R.S. § 36-2903.03
“Encounter”	R9-22-701	“Qualifying plan”	A.R.S. § 36-2981
“Enrollment”	R9-31-103	“Quality management”	R9-22-501
“Experimental services”	R9-22-101	“Radiology”	R9-22-102
“Facility”	R9-22-101	“Rebase”	R9-22-701
“Factor”	R9-22-101	“Redetermination”	R9-31-103
“Federal Poverty Level” or “FPL”	A.R.S. § 36-2981	“Referral”	R9-22-101
“First-party liability”	R9-22-1001	“Regional Behavioral Health Authority” or	
“Grievance”	R9-34-202	“RBHA”	A.R.S. § 36-3401
“Group Health Plan”	42 U.S.C. 1397jj	“Rehabilitation services”	R9-22-102
“GSA”	R9-22-101	“Reinsurance”	R9-22-701
“Head of Household”	R9-31-103	“Remittance advice”	R9-22-701
“Health care practitioner”	R9-31-1201	“RFP”	R9-31-106
“Hearing aid”	R9-22-102	“Respiratory therapy”	R9-22-102
“Home health services”	R9-22-102	“Scope of services”	R9-22-102
“Hospital”	R9-22-101	“Seriously ill”	R9-31-101
“Household income”	R9-31-103	“Service location”	R9-22-101
“ICU”	R9-22-701	“Service site”	R9-22-101
“IGA”	R9-31-116	“SMI” or “Seriously mentally ill”	A.R.S. § 36-550

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

“Specialist”	R9-22-102
“Speech therapy”	R9-22-102
“Spouse”	R9-31-103
“SSI-MAO”	R9-31-103
“Stabilize”	42 U.S.C. 1395dd
“Standard of care”	R9-22-101
“Sterilization”	R9-22-102
“Subcontract”	R9-22-101
“Subcontractor”	R9-31-101
“Third-party”	R9-22-1001
“Third-party liability”	R9-22-1001
“Tier”	R9-22-701
“Tiered per diem”	R9-31-107
“TRBHA” or “Tribal Regional Behavioral Health Authority”	R9-31-1201
“Tribal facility”	A.R.S. § 36-2981
“Utilization management”	R9-22-501

**B. General definitions.** The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“ADHS” has the same meaning as in A.A.C. R9-22-102.

“AHCCCS” means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

“Applicant” means a person who submits, or whose representative submits, a written, signed, and dated application for Title XXI medical coverage.

“Application” means an official request for Title XXI medical coverage made under this Chapter.

“Contract year” means the period beginning on October 1 and continuing until September 30 of the following year.

“Inpatient hospital services” means medically necessary services that require an inpatient stay in an acute care hospital and that are provided by or under the direction of a physician or other health care practitioner upon referral from a member’s primary care provider.

“Native American” means Indian as specified in 42 CFR 137.10.

“Seriously ill” means a medical or psychiatric condition manifesting itself by acute symptoms that left untreated may result in:

Death,  
Disability,  
Disfigurement, or  
Dysfunction.

“Subcontractor” means a person, agency, or organization that enters into an agreement with a contractor or subcontractor to provide services.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001

(Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

#### R9-31-102. Scope of Services-related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Certified nurse practitioner” means a registered nurse practitioner as certified by the Arizona Board of Nursing according to A.R.S. Title 32, Ch. 15.

“Psychosocial rehabilitation services” means the same as in R9-22-102.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

#### R9-31-103. Eligibility and Enrollment Related Definitions

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“CMDP” means Comprehensive Medical and Dental Program.

“CRS” means Children’s Rehabilitative Services.

“DES” means the Department of Economic Security.

“Determination” means the process by which an applicant is approved or denied for coverage.

“Enrollment” means the process by which a person is determined eligible for and enrolled in the program.

“Head of household” means the household member who assumes the responsibility for providing eligibility information for the household unit.

“Household income” means the total gross amount of all money received by or directly deposited into a financial account of a member of the household income group as defined in R9-31-304.

“Information” means the knowledge received or communicated in written or oral form regarding a circumstance or proof of a circumstance.

“PSP” means Premium Sharing Program, established according to A.R.S. § 36-2923.01.

“Redetermination” means the periodic review of a member’s continued Title XXI eligibility.

“Spouse” means the husband or wife of a Title XXI applicant or household member, who has entered into a contract of marriage, recognized as valid by Arizona.

“SSI-MAO” means Supplemental Security Income-Medical Assistance Only.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective Sep-



tember 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

**R9-31-104. Reserved**

**R9-31-105. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-106. Request for Proposal (RFP) Related Definitions**  
Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. “Offeror” means a person or other entity that submits a proposal to the Administration in response to an RFP.
2. “Proposal” means all documents including best and final offers submitted by an offeror in response to a Request for Proposals by the Administration.
3. “RFP” means Request for Proposals including all documents, whether attached or incorporated by reference, which are used by the Administration for soliciting a proposal according to this Article.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3).

**R9-31-107. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-108. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-109. Reserved**

**R9-31-110. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-111. Reserved**

**R9-31-112. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

sion, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-113. Repealed**

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3).

**R9-31-114. Reserved**

**R9-31-115. Reserved**

**R9-31-116. Services for Native Americans Related Definitions**

Definitions. The words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“IGA” means intergovernmental agreement.

“IHS” means Indian Health Service.

“IHS or Tribal Facility Provider” means a person who is authorized by the IHS or Tribal Facility to provide covered services to members and:

Is an AHCCCS registered provider, and

Is certified by the IHS or Tribal Facility as meeting all applicable federal and state requirements.

“TRBHA” means a Tribal Regional Behavioral Health Authority operated by a tribal government through an IGA with ADHS for the provision of behavioral health services to a Native American member residing on reservation.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3).

**ARTICLE 2. SCOPE OF SERVICES**

**R9-31-201. General Requirements**

- A. The Administration shall administer the Children’s Health Insurance Program under A.R.S. § 36-2982.
- B. Scope of services for American Indian fee-for-service members is under Article 16 of this Chapter.
- C. A contractor or RBHA shall provide behavioral health services under Articles 12 and 16.
- D. In addition to other requirements and limitations specified in this Chapter, the following general requirements apply:
  1. Only medically necessary, cost effective, and federally-reimbursable and state-reimbursable services are covered services.
  2. The Administration or a contractor may waive the covered services referral requirements of this Article.
  3. Except as authorized by a contractor, a primary care provider, practitioner, or dentist shall provide or direct the member’s covered services. Delegation of the provision of care to a practitioner does not diminish the role or responsibility of the primary care provider.

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

4. A contractor shall offer a female member direct access to preventive and routine services from gynecology providers within the contractor’s network without a referral from a primary care provider.
5. A member may receive behavioral health services as specified in 9 A.A.C. 22, Articles 2 and 12.
6. A member may receive treatment that is considered the standard of care, or that is approved by the AHCCCS Chief Medical Officer after appropriate input from providers who are considered experts in the field by the professional medical community.
7. An AHCCCS registered provider shall provide covered services within the provider’s scope of practice.
8. In addition to the specific exclusions and limitations otherwise specified under this Article, the following are not covered:
  - a. A service that is determined by the AHCCCS Chief Medical Officer to be experimental or provided primarily for the purpose of research;
  - b. Services or items furnished gratuitously; and
  - c. Personal care items, except as specified in R9-31-212.
9. Medical or behavioral health services are not covered if provided to:
  - a. An inmate of a public institution;
  - b. A person who is a resident of an institution for the treatment of tuberculosis; or
  - c. A person who is in an IMD at the time of application, unless provided under Article 12 of this Chapter.
- E. The Administration or a contractor may deny payment if a provider fails to obtain prior authorization as specified in this Article and Article 7 of this Chapter for non-emergency services. The Administration or a contractor shall not provide prior authorization for services unless the provider submits documentation of the medical necessity of the treatment along with the prior authorization request.
- F. Prior authorization is not required for services necessary to evaluate and stabilize an emergency medical condition.
- G. Under A.R.S. § 36-2989, a member shall receive covered services outside of the GSA only if one of the following applies:
  1. A member is referred by a primary care provider for medical specialty care out of the contractor’s area. If the member is referred outside of the GSA to receive an authorized medically necessary service, a contractor shall also provide all other medically necessary covered services for the member;
  2. There is a net savings in service delivery costs as a result of going outside the GSA that does not require undue travel time or hardship for a member or the member’s family; or
  3. The contractor authorizes placement in a nursing facility located outside of the GSA;
- H. If a member is traveling or temporarily residing outside of the GSA, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- I. A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in this Chapter and in contract.
- J. The restrictions, limitations, and exclusions in this Article do not apply to a contractor if the contractor elects to provide noncovered services.
  1. The Administration shall not consider the costs of providing a noncovered service to a member in the development or negotiation of a capitation rate.
2. A contractor shall pay for noncovered services from administrative revenue or other contractor funds that are unrelated to the provision of services under this Chapter.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 3246, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 3276, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-202. Reserved****R9-31-203. Reserved****R9-31-204. Inpatient General Hospital Services**

A contractor, fee-for-service provider, or noncontracting provider shall render inpatient general hospital services including:

1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for:
  - a. Maternity care, including labor, delivery, recovery room, birthing center, and newborn nursery;
  - b. Neonatal intensive care unit (NICU);
  - c. Intensive care unit (ICU);
  - d. Surgery, including surgery room and recovery room;
  - e. Nursery and related services;
  - f. Routine care; and
  - g. Emergency behavioral health services under 9 A.A.C. 31, Article 12.
2. Ancillary services as specified by the Director and included in contract:
  - a. Laboratory services;
  - b. Radiological and medical imaging services;
  - c. Anesthesiology services;
  - d. Rehabilitation services;
  - e. Pharmaceutical services and prescription drugs;
  - f. Respiratory therapy;
  - g. Blood and blood derivatives; and
  - h. Central supply items, appliances, and equipment not ordinarily furnished to all patients which are customarily reimbursed as ancillary services.
3. Providers are not required to obtain prior authorization from the Administration for the following inpatient hospital services:
  - a. Dialysis shunt placement,
  - b. Arteriovenous graft placement for dialysis,
  - c. Angioplasties or thrombectomies of dialysis shunts,
  - d. Angioplasties or thrombectomies of arteriovenous graft for dialysis,
  - e. Hospitalization for vaginal delivery that does not exceed 48 hours,
  - f. Hospitalization for cesarean section delivery that does not exceed 96 hours, and
  - g. Other services identified by the Administration through the Provider Participation Agreement.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9,

2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### **R9-31-205. Attending Physician, Practitioner, and Primary Care Provider Services**

- A.** A primary care provider shall provide primary care provider services within the provider's scope of practice under A.R.S. Title 32. A member may receive primary care provider services in an inpatient or outpatient setting including at a minimum:
1. Periodic health examination and assessment,
  2. Evaluation and diagnostic workup,
  3. Medically necessary treatment,
  4. Prescriptions for medication and medically necessary supplies or equipment,
  5. Referral to a specialist or other health care professional if medically necessary as specified in A.R.S. § 36-2989,
  6. Patient education,
  7. Home visits if medically necessary,
  8. Covered immunizations, and
  9. Covered preventive health services.
- B.** As specified in A.R.S. § 36-2989, a second opinion procedure may be required to determine coverage for surgery. Under this procedure, documentation must be provided by at least two physicians as to the need for the proposed surgery for the member.
- C.** The following limitations and exclusions apply to physician and practitioner services and primary care provider services:
1. Specialty care and other services provided to a member upon referral from a primary care provider are limited to the services or conditions for which the referral is made, or for which authorization is given by the contractor;
  2. A member's physical examination is not a covered service if the physical examination is to obtain one or more of the following:
    - a. Qualification for insurance,
    - b. Pre-employment physical evaluation,
    - c. Qualification for sports or physical exercise activities,
    - d. Pilot's examination (Federal Aviation Administration),
    - e. Disability certification to establish any kind of periodic payments,
    - f. Evaluation to establish third-party liabilities, or
    - g. Physical ability to perform functions that have no relationship to primary objectives of the services listed in subsection (A).
  3. The following services are excluded from AHCCCS coverage:
    - a. Infertility services, reversal of surgically induced infertility (sterilization), and gender reassignment surgery;
    - b. Pregnancy termination counseling services;
    - c. A pregnancy termination, unless authorized under federal law;
    - d. A service or item furnished solely for cosmetic purposes;
    - e. A hysterectomy, unless determined to be medically necessary; and
    - f. Licensed midwife services for prenatal care and home birth.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended

by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2).

#### **R9-31-206. Organ and Tissue Transplantation Services**

The following organ and tissue transplantation services shall be covered for a member as specified in A.R.S. § 36-2989 if prior authorized and coordinated with a member's contractor:

1. Kidney transplantation;
2. Simultaneous Kidney/Pancreas transplant;
3. Cornea transplantation;
4. Heart transplantation;
5. Liver transplantation;
6. Autologous and allogeneic bone marrow transplantation;
7. Lung transplantation;
8. Heart-lung transplantation;
9. Other organ transplantation if the transplantation is required by federal law and if other statutory criteria are met; and
10. Immunosuppressant medications, chemotherapy, and other related services.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4).

#### **R9-31-207. Dental Services**

Medically necessary dental services are provided for children under age 19 under A.R.S. § 36-2989 and R9-22-213.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2).

#### **R9-31-208. Laboratory, Radiology, and Medical Imaging Services**

An AHCCCS-registered provider shall provide laboratory, radiology, and medical imaging services for children under age 19, under A.R.S. § 36-2989 and R9-22-208.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2).

#### **R9-31-209. Pharmaceutical Services**

Pharmaceutical services are provided for children under age 19 under R9-22-209.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2).

#### **R9-31-210. Emergency Medical Services**

- A.** Emergency medical services shall be provided based on the prudent layperson standard to a member by licensed providers registered with AHCCCS to provide services under A.R.S. § 36-2989.
- B.** The provider of emergency services shall verify eligibility and enrollment status through the Administration to determine the need for notification to a contractor or a RBHA for a member and to determine the party responsible for payment of services rendered.

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

- C. Access to an emergency room and emergency medical services shall be available 24 hours per day, seven days per week in each contractor’s service area. The use of examining or treatment rooms shall be available when required by a physician or practitioner for the provision of emergency services.
- D. Behavioral Health Evaluation provided by a psychiatrist or psychologist shall be covered as an emergency service, so long as it meets the requirements of 9 A.A.C. 31, Article 12.
- E. Emergency services do not require prior authorization but providers shall comply with the following notification requirements:
  - 1. Providers and noncontracting providers furnishing emergency services to a member shall notify the member’s contractor within 12 hours of the time the member presents for services;
  - 2. If a member’s medical condition is determined not to be an emergency medical condition under Article 1 of this Chapter, the provider shall notify the member’s contractor before initiation of treatment and follow the prior authorization requirements and protocol of the contractor regarding treatment of the member’s nonemergent condition. Failure to provide timely notice or comply with prior authorization requirements of the contractor constitutes cause for denial of payment.
- F. A provider and a noncontracting provider shall request authorization from a contractor for post stabilization services. A contractor shall pay for the post stabilization services if:
  - 1. The service is pre-approved by a contractor, or
  - 2. A contractor does not respond to an authorization request within the time-frame under 42 CFR 438.114.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3).

**R9-31-211. Transportation Services**

The Administration shall provide transportation services under A.A.C. R9-22-211.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

**R9-31-212. Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies**

As specified in A.R.S. § 36-2989, DME, orthotic and prosthetic devices, and medical supplies, including incontinence briefs, are covered services if provided in compliance with requirements of this Chapter and A.A.C. R9-22-212. For purposes of this Section, where the term “AHCCCS services” is used in R9-22-212, it is replaced with the term “Title XXI services.”

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3276, effective September 11, 2007 (Supp. 07-3).

**R9-31-213. Health Risk Assessment and Screening Services**

- A. As authorized by A.R.S. § 36-2989, the following services shall be covered for a member:
  - 1. Screening services, including:
    - a. Comprehensive health, behavioral health and developmental histories;
    - b. Comprehensive unclothed physical examination;
    - c. Appropriate immunizations according to age and health history; and
    - d. Health education, including anticipatory guidance.
  - 2. Vision services including:
    - a. Diagnosis and treatment for defects in vision,
    - b. Eye examinations for the provision of prescriptive lenses, and
    - c. Provision of prescriptive lenses.
  - 3. Hearing services, including:
    - a. Diagnosis and treatment for defects in hearing,
    - b. Testing to determine hearing impairment, and
    - c. Provision of hearing aids.

- B. All providers of services shall meet the following standards:
  - 1. Provide services by or under the direction of, the member’s primary care provider or dentist.
  - 2. Perform tests and examinations as specified in contract and under 42 CFR 441, Subpart B, January 29, 1985, which is incorporated by reference and on file with the Office of the Secretary of State and the Administration. This incorporation by reference contains no future editions or amendments.
  - 3. Refer members as necessary for dental diagnosis and treatment, and necessary specialty care.
  - 4. Refer members as necessary for behavioral health evaluation and treatment services as specified in 9 A.A.C. 31, Article 12.
- C. A contractor shall meet the following additional conditions for members:
  - 1. Provide information to members and their parents or guardians concerning services; and
  - 2. Notify members and their parents or guardians regarding the initiation of screening and subsequent appointments according to the AHCCCS Administration Periodicity Schedule.
- D. A contractor, primary care provider, attending physician, or practitioner shall refer a member with special health care needs under A.A.C. R9-7-301 to CRS.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

**R9-31-214. Reserved****R9-31-215. Other Medical Professional Services**

- A. The following medical professional services are covered services if a member receives these services in an inpatient, outpatient, or office setting:
  - 1. Dialysis;
  - 2. The following family planning services if provided to delay or prevent pregnancy:
    - a. Medications,
    - b. Supplies,
    - c. Devices, and
    - d. Surgical procedures.
  - 3. Family planning services are limited to:
    - a. Contraceptive counseling, medication, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package

of sexually transmitted disease tests provided with a family planning service; and

- b. Natural family planning education or referral;
  4. Midwifery services provided by a nurse practitioner certified in midwifery;
  5. Podiatry services if ordered by a member’s primary care provider as specified in A.R.S. § 36-2989;
  6. Respiratory therapy;
  7. Ambulatory and outpatient surgery facilities services;
  8. Home health services in A.R.S. § 36-2989;
  9. Private or special duty nursing services;
  10. Rehabilitation services including physical therapy, occupational therapy, speech therapy, and audiology provided under this Article;
  11. Total parenteral nutrition services, (which are the provision of total caloric needs by intravenous route for individuals with severe pathology of the alimentary tract);
  12. Inpatient chemotherapy;
  13. Outpatient chemotherapy; and
  14. Hospice care under R9-22-213.
- B.** Prior authorization from the Administration for a member is required for services listed in subsections (A)(4) through (11) and (14); except for:
1. Dialysis shunt placement,
  2. Arteriovenous graft placement for dialysis,
  3. Angioplasties or thrombectomies of dialysis shunts,
  4. Angioplasties or thrombectomies of arteriovenous grafts for dialysis,
  5. Eye surgery for the treatment of diabetic retinopathy,
  6. Eye surgery for the treatment of glaucoma,
  7. Eye surgery for the treatment of macular degeneration,
  8. Home health visits following an acute hospitalization (limited up to five visits),
  9. Hysteroscopies, (up to two, one before and one after, when associated with a family planning diagnosis code and done within 90 days of hysteroscopic sterilization),
  10. Physical therapy subject to the limitation in subsection A.A.C. R9-22-215(C),
  11. Facility services related to wound debridement,
  12. Apnea management and training for premature babies up to the age of 1, and
  13. Other services identified by the Administration through the Provider Participation Agreement.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-216. NF, Alternative HCBS Setting, or HCBS

Services provided in a NF, including room and board, alternative HCBS setting, or HCBS shall be covered as specified in A.A.C. R9-22-216.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3276, effective September 11, 2007 (Supp. 07-3).

### ARTICLE 3. ELIGIBILITY AND ENROLLMENT

#### R9-31-301. General Requirements

- A.** Administration. The Administration shall administer the program as specified in A.R.S. § 36-2982.
- B.** Operational authority. The Director has full operational authority to adopt rules or to use the appropriate rules for the development and management of an eligibility and enrollment system as specified in A.R.S. § 36-2986.
- C.** Expenditure limit and enrollment
  1. Title XXI will accept enrollees subject to the availability of funds. If the Director determines that monies may be insufficient for the program, the Administration shall stop processing applications for the program as specified in A.R.S. § 36-2985.
  2. After the Administration has verified that funding is sufficient, it will resume processing applications as specified in A.R.S. § 36-2985.
  3. The Administration shall immediately stop processing all applications and shall provide advance notice to a member that the program will terminate under A.R.S. § 36-2985.
  4. A child is not entitled to a hearing under Article 8 of this Chapter, if the program is suspended or terminated.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### R9-31-302. Applications

- A.** Availability. The provisions in A.A.C. R9-22-1405(B) apply to this Section. The Administration shall make available program applications. Any person may request a program application.
- B.** Submission of applications. An application is completed and submitted to the Administration:
  1. In person,
  2. By mail,
  3. By fax, or
  4. By other form approved by the Administration.
- C.** Date of application. The date of application is the date the Administration or its designee receives an application that:
  1. Is signed by the person making the application,
  2. Includes the name of the person for whom assistance is requested, and
  3. Includes the address and telephone number of the person submitting the application.
- D.** Completed application.
  1. The provisions in A.A.C. R9-22-1405(E) apply to this Section.
  2. The Administration shall consider an application complete when:
    - a. All questions are answered,
    - b. An enrollment choice is included, and
    - c. All necessary verification is provided by an applicant or an applicant’s representative.
  3. If the application is incomplete, the Administration shall do one or both of the following:
    - a. Contact an applicant or an applicant’s representative by telephone to obtain the missing information required for an eligibility determination;
    - b. Mail a request for additional information to an applicant or an applicant’s representative, allowing 10 days from the date of the request to provide the required additional information.
- E.** Eligibility determination processing time.

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

1. When an application is complete, the Administration shall mail notification to the applicant regarding the eligibility determination no more than 30 days from the date of application except when there is an emergency beyond the Administration’s control.
  2. An applicant shall provide the Administration with all requested information within 10 days from the date of the written request for the information. If an applicant fails to provide the requested information and fails to request an extension of the 10 day period or the request for extension is denied, the Administration shall deny eligibility.
- F. Waiting list.** If the Administration stops processing an application because the monies are insufficient as specified in R9-31-301(C)(1), the Administration shall place an applicant on a waiting list and notify the applicant. When sufficient funding becomes available, the Administration shall contact an applicant on the waiting list and ask the applicant to submit a new application if the original application is more than 60 days old. The Administration shall fill spaces in the order that an application is received and approved.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5150, effective January 3, 2004 (Supp. 03-4).

**R9-31-303. Eligibility Criteria**

**Eligibility.** To be eligible for the program, an applicant shall meet all the following eligibility requirements:

1. Age. Is less than 19 years of age. A child’s coverage shall continue through the month in which a child turns age 19 if the child is otherwise eligible;
2. Citizenship. Is a United States citizen or a qualified alien under A.R.S. § 36-2983;
3. Residency. Is a resident of the state of Arizona under A.R.S. § 36-2983. An Arizona resident is a person who currently lives in Arizona and intends to remain in Arizona indefinitely;
4. Income. Meets the income requirements in R9-31-304;
5. Cost sharing. Pays the cost sharing premium amount when premiums are required as specified in A.R.S. §§ 36-2982 and 36-2903.01;
6. Social security number (SSN). Provides a SSN or applies for a SSN within 30 days after submitting an application.
7. Assignment. Assigns rights to any first- or third-party coverage of medical care as specified in 9 A.A.C. 31, Article 10;
8. Other federal program. Is not eligible for Medicaid or other federally operated or financed health care insurance program, except the Indian Health Service as specified in A.R.S. § 36-2983;
9. Inmate of a public institution. Is not an inmate of a public institution, as specified in A.R.S. § 36-2983;
10. Patient in an institution for mental disease. Is not a patient in an institution for mental disease at the time of application, or at the time of redetermination, as specified in A.R.S. § 36-2983;
11. Other health coverage. Is not covered under:
  - a. An employer’s group health insurance plan,
  - b. Family or individual health insurance, or
  - c. Other health insurance;
12. State health benefits. Is not a member of a family that is eligible for health benefits coverage under a state health benefit plan based on a family member’s employment with a public agency in the state of Arizona;
13. Prior health insurance coverage. Has not been covered by health insurance during the previous three months unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason as specified in A.R.S. § 36-2983. The three months of ineligibility due to previous insurance coverage shall not apply to:
  - a. A newborn as defined in R9-31-309;
  - b. A Title XIX member as specified in 9 A.A.C. 22, Article 1;
  - c. An applicant who is seriously ill under R9-31-101 or chronically ill under A.R.S. § 36-2983;
  - d. A member under this Article who loses insurance coverage;
  - e. A CRS member; or
  - f. A Native American member receiving services from IHS or a Tribal Facility.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 4560, effective October 1, 2003 (Supp. 03-4). Amended by final rulemaking at 9 A.A.R. 5150, effective January 3, 2004 (Supp. 03-4).

**R9-31-304. Income Eligibility**

- A. Income standard.** The combined gross income of the household income group members as specified in subsection (C) shall not exceed the percentage of the appropriate FPL under A.R.S. § 36-2981 for the Title XXI household income group size.
- B. Calculating monthly income.** The Administration shall calculate monthly income under A.A.C. R9-22-1419.01(B) through 1419.04.
- C. Title XXI household income group.**
  1. For this Section:
    - a. “Child” means a person less than 19 years of age or an unborn child.
    - b. “Parent” means a biological, adoptive, or step parent.
  2. The following related persons, when residing together, constitute a Title XXI household income group:
    - a. A married couple and children of either one or both;
    - b. An unmarried couple with a common child and at least one other child of either one or both;
    - c. A married couple when one or both are under age 19 with no child;
    - d. A single parent and the single parent’s child;
    - e. A child who does not live with a parent; and
    - f. The following persons, when living with a child:
      - i. A spouse of the child;
      - ii. A child of the spouse child;
      - iii. A child of the child; and
      - iv. The other parent of a child of the child.
  3. A member of the household income group who is absent from a household shall be included in the child’s household income group if absent:
    - a. For 30 days or less,

- b. For the purpose of seeking employment or to maintain a job,
  - c. For serving in the military, or
  - d. For an educational purpose and the child's parent claims the child as a dependent on the parent's income tax return.
- D. Income disregards.** When determining gross income of the household, the Administration shall disregard the following:
- 1. Income specified in 20 CFR 416, Appendix to subpart K as of June 6, 1997, which is incorporated by reference and on file with the Office of the Secretary of State and the Administration. This incorporation by reference contains no future editions or amendments;
  - 2. Income paid according to federal law that prohibits the use of the income when determining eligibility for public benefits;
  - 3. Money received as the result of the conversion of an asset;
  - 4. Income tax refunds; and
  - 5. An amount equal to the expenses of producing self-employment income from the gross self-employment income.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5150, effective January 3, 2004 (Supp. 03-4).

#### R9-31-305. Verification

Verification. An applicant or a member shall provide the Administration with verification or authorize the release of verification to the Administration of all information necessary to complete the determination of eligibility.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4).

#### R9-31-306. Enrollment

##### A. Selection choices.

- 1. Except as provided in subsections (A)(3), (4), and (5), at the time of application, an applicant shall select from the following enrollment choices:
  - a. A contractor which includes a contractor or a qualifying plan as defined in A.R.S. § 36-2981, or
  - b. The IHS as specified in A.R.S. § 36-2982. If a member is enrolled with the IHS, a member may elect to receive covered services from a participating Tribal Facility.
- 2. Except as provided in subsections (A)(3), (4), and (5), coverage shall not begin until a Title XXI enrollment choice is made.
- 3. The Administration shall enroll a member with CMDP when a member is a foster care child according to A.R.S. § 8-512.
- 4. When a Title XIX member becomes ineligible for Title XIX and DES determines the member eligible for Title XXI with no break in coverage,
  - a. The Title XXI member shall remain enrolled with the Title XIX contractor; and
  - b. The Administration shall send the Title XXI member a notice explaining the member's right to choose as specified in subsection (A)(1).

- 5. When an applicant applies for Title XIX through DES and DES determines the applicant ineligible for Title XIX but eligible for Title XXI, the Administration shall enroll the applicant for Title XXI as follows:

- a. If a Title XIX contractor pre-enrollment choice is pending at the time the Administration receives the Title XXI approval from DES, the Administration may:
  - i. Enroll member with the Title XIX contractor, and
  - ii. Notify the member of the member's enrollment and provide the member an opportunity to select an enrollment choice as specified in subsection (A)(1).
- b. If there is no pending Title XIX choice at the time the Administration receives the Title XXI approval from DES, the Administration shall pend the Title XXI decision and obtain a choice from the member as specified in subsection (A)(1).

##### B. Effective date of initial enrollment.

- 1. For an eligibility determination completed by the 25th day of the month, enrollment shall begin on the first day of the month following the determination of eligibility.
- 2. For an eligibility determination completed after the 25th day of the month, enrollment shall begin on the first day of the second month following the determination of eligibility.

##### C. Enrollment changes.

- 1. If a member moves from one GSA to another GSA during the period of enrollment, enrollment changes shall occur as follows:
  - a. If a member's current enrollment choice is available in a member's new GSA, a member shall remain enrolled with the member's current enrollment choice.
  - b. If a member's current enrollment choice is not available in the new GSA, a member shall:
    - i. Remain enrolled with the current enrollment choice. The current enrollment choice may limit services to emergency services outside the GSA as specified in R9-31-201.
    - ii. Select from the enrollment choices provided in R9-31-306(A)(1) that are available in the new GSA. Once a new choice is made, a member shall be enrolled with the new choice effective with the date the Administration processes the member's enrollment choice. Covered services shall be available on the date of the enrollment change.
- 2. A member may change a member's enrollment choice:
  - a. During a member's annual enrollment choice period,
  - b. At any time from:
    - i. IHS to a contractor as specified in subsection (A)(1) of this Section; or
    - ii. A contractor to IHS.
  - c. When a member is no longer a foster care child as specified in subsection (A)(3) of this Section.
- 3. Except for subsection (C)(2)(c) of this Section, the effective date of the new enrollment choice is the date the Administration processes the enrollment choice. The effective date of the enrollment change from CMDP to a Title XXI choice as specified in subsection (A)(1) of this Section, shall be the first of the following month.

- D. Annual enrollment choice period.** A member shall have the opportunity to change enrollment no later than 12 months fol-

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

lowing the last time a member made an enrollment choice or had the opportunity to make an enrollment choice.

- E.** Health Insurance Portability and Accountability Act of 1996. As specified in A.R.S. § 36-2982, a Title XXI member who has been disenrolled shall be allowed to use enrollment in the Title XXI program as creditable coverage as defined in A.R.S. § 36-2984.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

**R9-31-307. Guaranteed Enrollment**

- A.** Guaranteed Enrollment. A child who is determined eligible for Title XXI shall be guaranteed a one-time, 12-month period of continuous coverage unless a child:
1. Attains age 19,
  2. Is no longer a resident of the state,
  3. Is an inmate of a public institution,
  4. Is determined to have been ineligible at the time of approval,
  5. Obtains private or group health coverage,
  6. Is adopted and the new household does not meet the qualifications of this program,
  7. Is a patient in an institution for mental diseases,
  8. Has whereabouts that are unknown, or
  9. Has a head of household who:
    - a. Does not pay cost sharing premium amount when premiums are required as specified in A.R.S. §§ 36-2982 and 36-2903.01 and as specified in this Chapter,
    - b. Voluntarily withdraws from the program, or
    - c. Fails to cooperate in meeting the requirements of the program.
- B.** The 12-month guaranteed period shall begin with the month an applicant is initially enrolled.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 4560, effective October 1, 2003 (Supp. 03-4).

**R9-31-308. Changes and Redeterminations**

- A.** Reporting Changes. A member or a member’s parent or guardian shall report the following changes to the Administration:
1. Any increase in income that will begin or continue into the following month,
  2. Any change of address,
  3. The addition or departure of a household member,
  4. Any health coverage under private or group health insurance,
  5. Employment of a member or a parent with a state agency, and
  6. Incarceration of a member.
- B.** Verification. If required verification is needed and requested as a result of a change specified in subsection (A) of this Section to determine the impact on eligibility and is not received within 10 days, the Administration shall send a notice to dis-

continue eligibility for a member unless a member is within the guaranteed eligibility period as specified in R9-31-307.

- C.** Redeterminations. If no change is reported, the Administration shall initiate redetermination no later than the end of the 12th month after the effective date of eligibility, or the completion of the most recent redetermination decision whichever is later.
- D.** Termination. If the Administration determines that a child no longer meets the eligibility criteria, or a head of household fails to respond or cooperate with the redetermination of eligibility, the Administration shall terminate coverage.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

**R9-31-309. Newborn Eligibility**

- A.** Eligibility. A child born to a Title XXI member, is eligible for 12 months of coverage without filing an application under Title XXI provided:
1. The child continues to live with the child’s mother during the 12-month period; and
  2. One of the events as specified in R9-31-307(A) does not occur.
- B.** Deemed Coverage. A newborn’s deemed newborn coverage shall begin effective with a newborn’s date of birth and end with the last day of the month in which a newborn turns age 1. Deemed newborn status does not preclude a child from applying for Title XIX and being approved.
- C.** Enrollment choice for a newborn. A newborn shall be enrolled with a mother’s enrollment choice as specified in contract.
- D.** Notification of enrollment. The Administration shall notify a mother of a newborn’s enrollment and provide a mother an opportunity to select an enrollment choice as specified in R9-31-306(A)(1).

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3).

**R9-31-310. Notice Requirements**

- A.** Applications. Upon completion of a determination of eligibility or ineligibility for any child in the household, the Administration shall issue a written notice to an individual who initiated the application. This notice shall include a statement of the intended action, an explanation of a person’s hearing rights as specified in 9 A.A.C. 31, Article 8, and:
1. If approved, the notice shall contain the name and effective date of eligibility for each approved applicant;
  2. If denied, the notice shall contain:
    - a. The name of each ineligible applicant,
    - b. The effective date of the denial,
    - c. The reasons for ineligibility including appropriate income calculations and income standard when the reason for the denial is based on excess income,
    - d. The legal authority supporting the reason for ineligibility, and
    - e. The resource or reference materials where the legal authority citations are found.
- B.** Terminations.
1. When the Administration proposes a termination of Title XXI eligibility, the Administration shall provide a member with:



- a. Advance notice at least 10 days before the effective date of the adverse action except as provided in subsection (B)(1)(b).
- b. Adequate notice no later than the date of adverse action when a member:
  - i. Voluntarily withdraws and indicates an understanding of the results of the action,
  - ii. Becomes an inmate of a public institution as specified in R9-31-303(I),
  - iii. Dies and the Administration has verification of the death,
  - iv. Has whereabouts that are unknown and the Administration's loss of contact is confirmed by returned mail from the post office with no forwarding address, or
  - v. Is approved for Title XIX.
2. In addition to the requirements listed in subsection (A)(2), the termination notice shall include an explanation of a member's right to continued Title XXI coverage pending a request for hearing as provided in 9 A.A.C. 31, Article 8 and 14.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September, 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4).

### ARTICLE 4. KIDSCARE II PROGRAM

#### R9-31-401. KidsCare II Program

- A. Subject to CMS approval and the availability of funding under the special terms and conditions of the 1115 Waiver, the Administration shall establish the KidsCare II program.
- B. Subject to the availability of funding, the following children are potentially eligible under this Section notwithstanding the closure of new enrollment under Article 3 on December 21, 2009, due to a lack of available funding:
  1. Children with household income at or below 175% of FPL, who are discontinued for eligibility under 9 A.A.C. 22, Article 14, effective on or after May 1, 2012, due to age.
  2. Children with household income at or below 175% of FPL, whose application for assistance was denied or discontinued as ineligible under 9 A.A.C. 22 on or after December 21, 2009, but who were determined potentially eligible for KidsCare as of the date of that denial or discontinuance and whose eligibility for KidsCare was not determined because the Administration stopped processing applications due to insufficient funding pursuant to R9-31-301(C).
  3. Children not described in subsection (B)(2) with household income at or below 175% of FPL.
- C. Beginning on or before May 1, 2012, the Administration shall send notice of potential eligibility under this Section to as many households with children described in subsection (B)(2) as is estimated by the Administration as likely to result in the return of a sufficient number of applications to increase enrollment under this Section to the extent of available funding under this Section.
- D. Notice of potential eligibility:
  1. Children who were placed on the waiting list established under R9-31-302(F) on an earlier date shall receive notice before children placed on the waiting list on a later date.
  2. Notwithstanding subsection (D)(1), all children in the household will receive notice and be determined for eligibility based on the child in the household with the earliest applicable date.
  3. Households shall have 30 days to return an application to the Department.
  4. If notices that are initially sent under subsection (C) do not result in sufficient applications to enroll as many children as allowed by available funding, the Administration shall send out additional notices as described in subsection (C).
- E. The Department shall review all applications for a determination of eligibility under 9 A.A.C. 22. If the Department determines that a child is not eligible under 9 A.A.C. 22 but has income at or below 175% of FPL and meets all other eligibility criteria under R9-31-303, the Department shall refer the application to the Administration.
- F. The Administration shall accept the Department's determinations regarding eligibility criteria without requiring the household to submit a new application under this Section or to re-verify information verified by the Department.
- G. Upon referral of an application from the Department, the Administration shall:
  1. Determine whether the application referred by the Department was from a household with a child described in subsection (B)(1) or from a household that received a notice under subsection (D) that submitted an application to the Department within 30 days of the Administration's request for a new application;
  2. Process applications for children described in subsection (B)(3) beginning June 25, 2012;
  3. Determine whether the household has any unpaid premiums as described in R9-31-1420 and, if so, the Administration shall require the household to pay the past due premium within 20 days from notification as a condition of determining a child eligible under this Section;
  4. Enroll children under this Section based on the date that the Administration determines the child eligible; and
  5. Stop processing applications and determining eligibility under this Section once the Administration has enrolled the maximum number of children consistent with funding made available under this Section.
- H. Effective date of initial enrollment.
  1. For an eligibility determination completed by the 25th day of the month, enrollment shall begin on the first day of the month following the determination of eligibility.
  2. For an eligibility determination completed after the 25th day of the month, enrollment shall begin on the first day of the second month following the determination of eligibility.
- I. Any child who is not determined eligible under subsection (G) shall remain on the waiting list described in R9-31-302(F).
- J. Eligibility for children under this Section ends on December 31, 2013.
- K. Except as otherwise provided by this Section, eligibility shall be determined in accordance with the provisions of this Chapter.

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). New Section made by exempt rulemaking at 18 A.A.R. 1141, effective May 1, 2012 (Supp. 12-2).

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

Amended by exempt rulemaking at 18 A.A.R. 1975, effective August 1, 2012 (Supp. 12-3).

**R9-31-402. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**R9-31-403. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**R9-31-404. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**R9-31-405. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**R9-31-406. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**R9-31-407. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

**ARTICLE 5. GENERAL PROVISIONS AND STANDARDS****R9-31-501. General Provisions and Standards – Related Definitions**

Definitions. In this Chapter, unless the context explicitly requires another meaning terms are defined in R9-31-101 or cross-referenced to the location of the definition.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4408, effective January 3, 2009 (Supp. 08-4).

**R9-31-502. Pre-existing Conditions**

A contractor shall comply with the pre-existing condition requirements in A.A.C. R9-22-502.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4). Error to Section heading corrected to reflect amendment made at 11 A.A.R. 4295 (Supp. 08-3). Amended by final rulemaking at 14 A.A.R. 4408, effective January 3, 2009 (Supp. 08-4).

**R9-31-503. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3).

**R9-31-504. Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions**

A contractor or any person or entity acting as the contractor’s marketing representative shall follow the requirements in A.A.C. R9-22-504.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-505. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-506. Reserved****R9-31-507. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-508. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-509. Transition and Coordination of Member Care**

The Administration or a contractor shall conduct transition and coordination of member care as described in A.A.C. R9-22-509.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-510. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-511. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-512. Release of Safeguarded Information**

The Administration, a contractor, provider, and noncontracting provider shall meet the requirements specified in A.A.C. R9-22-512 regarding release of safeguarded information for an applicant or member.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-513. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-514. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-515. Reserved****R9-31-516. Reserved****R9-31-517. Reserved****R9-31-518. Information to Enrolled Members**

A contractor shall provide information to enrolled members as described under R9-22-518.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-519. Reserved****R9-31-520. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-521. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-522. Quality Management/Utilization Management (QM/UM) Requirements**

A contractor shall comply with Quality Management/Utilization Management (QM/UM) requirements as described under A.A.C. R9-22-522.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-523. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-524. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 4295, effective December 5, 2005 (Supp. 05-4).

**R9-31-525. Reserved****R9-31-526. Reserved****R9-31-527. Reserved**

**R9-31-528. Reserved**

**R9-31-529. Reserved**

#### **ARTICLE 6. RFP AND CONTRACT PROCESS**

##### **R9-31-601. General Provisions**

- A.** The Director has full operational authority to adopt rules and to use the appropriate rules for contract administration and oversight of contractors under A.R.S. § 36-2986. The Administration shall administer the program under A.R.S. § 36 - 2982.
- B.** The Administration shall award contracts under A.R.S. § 36-2986 to provide services under A.R.S. § 36-2989.
- C.** The Administration shall follow the provisions under 9 A.A.C. 22, Article 6 for members, unless otherwise specified in this Chapter.
- D.** The Administration is exempt from the procurement code under A.R.S. § 36-2988 and § 41-2501.
- E.** The Administration and contractors shall retain all contract records for five years under A.R.S. § 36-2986 and dispose of the records under A.R.S. § 41-2550.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

##### **R9-31-602. RFP**

The RFP for a contractor serving members who qualify for the program shall be under A.R.S. § 36-2986 and A.A.C. R9-22-602.

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

##### **R9-31-603. Contract Award**

The contract award shall be under A.R.S. § 36-2986 and A.A.C. R9-22-603.

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

##### **R9-31-604. Contract or Proposal Protests; Appeals**

Contract or proposal protests or appeals shall be under A.A.C. R9-22-604.

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

##### **R9-31-605. Waiver of Contractor’s Subcontract with Hospitals**

A waiver of a contractor’s subcontract with a hospital shall be under A.A.C. R9-22-605.

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

##### **R9-31-606. Contract Compliance Sanction**

The Administration shall follow sanction provisions under A.A.C. R9-22-606.

##### **Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1).

#### **ARTICLE 7. STANDARDS FOR PAYMENTS**

##### **R9-31-701. Standards for Payments Related Definitions**

Definitions. The words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

“Covered charges” means billed charges that represent medically necessary, reasonable, and customary items of expense for Title XXI-covered services that meet medical review criteria of the Administration or contractor.

“Medical review” means a review involving clinical judgment of a claim or a request for a service before or after it is paid or rendered to ensure that the services provided to the member are medically necessary and covered services and that the provider obtains required authorizations. The criteria for medical review are established by the contractor based on medical practice standards that are updated periodically to reflect changes in medical care.

“Outlier” means a hospital claim or encounter in which the Title XXI inpatient hospital days of care have operating costs per day that meet the criteria in A.A.C. R9-22-712.

“Tiered per diem” means a payment structure in which payment is made on a per-day basis depending upon the tier into which the Title XXI inpatient hospital day of care is assigned.

##### **Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

##### **R9-31-701.10. General Requirements**

The following Sections of A.A.C. Chapter 22, Articles 2 and 7 are applicable to reimbursement for AHCCCS-covered services provided to a member under the KidsCare program, except that the term “Children’s Health Insurance Program Fund” shall be substituted for “AHCCCS fund” and “A.R.S. § 36-2986” shall be substituted for “A.R.S. § 36-2903:”

1. Scope of the Administration’s and Contractor’s Liability, R9-22-701.10;
2. Charges to Members, R9-22-702;
3. Payments by the Administration and Payments by Contractors, R9-22-703 and R9-22-705;
4. Payments for Newborns, R9-22-707;
5. Contractor’s Liability to Hospitals for the Provision of Emergency and Post-stabilization Care, R9-22-709;
6. Payments for Non-hospital Services, R9-22-710;
7. Copayments, R9-22-711;
8. Specialty Contracts, R9-22-712(G)(3), R9-22-712.01(10) and Article 2;
9. Overpayment and Recovery of Indebtedness, R9-22-713;
10. Payments to Providers, R9-22-714;
11. Hospital Rate Negotiations, R9-22-715;
12. Contractor Performance Measure Outcomes, R9-22-719; and
13. Reinsurance, R9-22-720.

##### **Historical Note**

New Section made by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-702. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3246, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-703. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-704. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-705. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 11 A.A.R. 3171, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-706. Reserved****R9-31-707. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-708. Reserved****R9-31-709. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-710. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 3854, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-711. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4560, effective October 1, 2003 (Supp. 03-4). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-712. Reserved****R9-31-713. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-714. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-715. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 3171, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-716. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-717. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed by final

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

rulemaking at 11 A.A.R. 3171, effective October 1, 2005 (Supp. 05-3).

**R9-31-718. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 452, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-719. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R9-31-801 through R9-31-803 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).*

**R9-31-801. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-802. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-803. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-804. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3).

**Exhibit A. Repealed****Historical Note**

New Exhibit adopted by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Exhibit

repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**ARTICLE 9. REPEALED****R9-31-901. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 12 A.A.R. 4494, effective January 6, 2007 (Supp. 06-4).

**ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES****R9-31-1001. Definitions**

The definitions in A.R.S. § 36-2981, A.A.C. R9-22-1001, and A.A.C. R9-31-101 apply to this Article.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1002. General Provisions**

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1003. Cost Avoidance**

The provisions in A.A.C. R9-22-1003 apply to this Section except:

1. Replace the reference to “Article 2,” with 9 A.A.C. 31, Article 2; and
2. This Section applies to Title XXI covered services.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1004. Member Participation**

The provisions in A.A.C. R9-22-1004 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1005. Collections**

The provisions in A.A.C. R9-22-1005 apply to this Section except:

1. Replace the reference to “Article 2,” with 9 A.A.C. 31, Article 2;
2. This Section applies to Title XXI fee-for-service and reinsurance payments.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1006. AHCCCS Monitoring Responsibilities**

With the exception of long-term care insurance, the provisions in A.A.C. R9-22-1006 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1007. Notification for Perfection, Recording, and Assignment of Title XXI liens**

The provisions in A.A.C. R9-22-1007 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1008. Notification Information for Liens**

The provisions in A.A.C. R9-22-1008 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**R9-31-1009. Notification of Health Insurance Information**

The provisions in A.A.C. R9-22-1009 apply to this Section.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1152, effective May 1, 2004 (Supp. 04-1).

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS****R9-31-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims**

AHCCCS shall use the provisions in 9 A.A.C. 22, Article 11 for the determination and collection of penalties, assessments, and penalties and assessments.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3067, effective September 11, 2004 (Supp. 04-3).

**R9-31-1102. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 10 A.A.R. 3067, effective September 11, 2004 (Supp. 04-3).

**R9-31-1103. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 10 A.A.R. 3067, effective September 11, 2004 (Supp. 04-3).

**R9-31-1104. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 10 A.A.R. 3067, effective September 11, 2004 (Supp. 04-3).

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES****R9-31-1201. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations:

1. Administration. The program shall be administered as specified in A.R.S. § 36-2982.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2989 and this Chapter.
3. Definitions. The following definitions apply to this Article:
  - a. “Agency” for the purposes of this Article, means the same as in A.A.C. R9-22-1201.
  - b. “Behavior management services” means the same as in A.A.C. R9-22-1201.
  - c. “Behavioral health adult therapeutic home” means the same as in A.A.C. R9-22-1201.
  - d. “Behavioral health therapeutic home care services” means the same as in A.A.C. R9-22-1201.
  - e. “Behavioral health evaluation” means the same as in A.A.C. R9-22-1201.
  - f. “Behavioral health medical practitioner” means the same as in A.A.C. R9-22-1201.
  - g. “Behavioral health professional” means the same as in A.A.C. R9-20-101.
  - h. “Behavioral health service” means the same as in A.A.C. R9-22-1201.
  - i. “Behavioral health technician” means the same as in A.A.C. R9-22-1201.
  - j. “Certified psychiatric nurse practitioner” means the same as in A.A.C. R9-22-1201.
  - k. “Client” means the same as in A.A.C. R9-22-1201.
  - l. “Cost avoid” means the same as in A.A.C. R9-22-1201.
  - m. “Health care practitioner” means the same as in A.A.C. R9-22-1201.
  - n. “Licensee” means the same as in A.A.C. R9-22-1201.
  - o. “OBHL” means the same as in A.A.C. R9-20-101.
  - p. “Partial care” means the same as in A.A.C. R9-22-1201.
  - q. “Physician assistant” means the same as in A.A.C. R9-22-1201.
  - r. “Psychiatrist” means the same as in A.A.C. R9-22-1201.
  - s. “Psychologist” means the same as in A.A.C. R9-22-1201.
  - t. “Qualified behavioral health service provider” means the same as in A.A.C. R9-22-1201.
  - u. “Residual functional deficit” means the same as in A.A.C. R9-22-1201.
  - v. “Respite” means the same as in A.A.C. R9-22-1201.
  - w. “Substance abuse” means the same as in A.A.C. R9-22-102.
  - x. “TRBHA” or “Tribal Regional Behavioral Health Authority” means the same as in A.A.C. R9-22-1201.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1202. ADHS and Contractor Responsibilities**

- A.** ADHS responsibilities. Behavioral health services shall be provided by a RBHA through a contract with ADHS/DBHS. ADHS/DBHS shall contract with a RBHA for the provision of behavioral health services in R9-22-1205 for all Title XXI members as specified in A.R.S. § 36-2989. ADHS/DBHS, the RBHA's, TRBHA's or subcontractors shall provide behavioral health services to Title XXI members in accordance with R9-22-1202.
- B.** ADHS/DBHS may contract with a TRBHA for the provision of covered behavioral health services for Native American members. Native American members may receive covered behavioral health services:
  1. From an IHS facility,
  2. From a TRBHA, or
  3. From a RBHA when referred off-reservation.
- C.** ADHS/DBHS, the RBHA's, TRBHA's, subcontractors of ADHS/DBHS, and AHCCCS acute care contractors shall cooperate as specified in contract when a transition from one entity to another becomes necessary.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1203. Eligibility for Covered Services**

- A.** Eligibility for covered services. A member determined eligible under A.R.S. § 36-2981 shall receive medically necessary covered services specified in R9-22-1205.
- B.** Limitations. Behavioral health services are covered as specified in R9-22-201 and R9-22-1205.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1204. General Service Requirements**

- A.** Services. Behavioral health services include both mental health and substance abuse services.
- B.** Medical necessity. A service shall be medically necessary as under R9-31-201.
- C.** Prior authorization. A provider shall comply with the prior authorization requirements of the contractor and the following:
  1. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
  2. Non-emergency behavioral health services. When a member's behavioral health condition is determined not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor.

- D.** Experimental services. Experimental services and services that are provided primarily for the purpose of research are not covered.
- E.** Gratuities. A service or an item, if furnished gratuitously to a member, is not covered and payment to a provider shall be denied.
- F.** GSA. Behavioral health services rendered to a member shall be provided within the RBHA's GSA except when:
  1. A contractor's primary care provider refers a member to another area for medical specialty care,
  2. A member's medically necessary covered service is not available within the GSA, or
  3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family.
- G.** Travel. If a member travels or temporarily resides outside of a behavioral health service area, covered services are restricted to emergency behavioral health care, unless otherwise authorized by a member's RBHA.
- H.** Non-covered services. If a member requests a behavioral health service that is not covered by Title XXI or is not authorized by a RBHA or TRBHA, the behavioral health service may be provided by an AHCCCS registered behavioral health service provider under the provisions of R9-22-702.
- I.** Referral. If a member is referred outside of a RBHA or TRBHA GSA to receive authorized medically necessary behavioral health services, the RBHA or TRBHA is responsible for reimbursement, if the claim is otherwise payable under these rules.
- J.** Restrictions and limitations.
  1. The restrictions, limitations, and exclusions in this Article do not apply to a contractor, ADHS/DBHS, or a RBHA when electing to provide a noncovered service.
  2. Room and board is not a covered service unless provided in an inpatient, Level 1, sub-acute, or residential facility under R9-22-1205.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1205. Scope of Behavioral Health Services**

The provisions of R9-22-1205 apply to the scope and coverage of behavioral health services under this Article, but an applicant or member is not eligible to receive covered behavioral health services if in an IMD at the time of application or at the time of redetermination.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).



**R9-31-1206. General Provisions and Standards for Service Providers**

- A. The provisions of R9-22-1206 apply to the general provisions and standards for a behavioral health service provider under this Article.
- B. A qualified behavioral service provider shall comply with all requirements under Article 5 of this Chapter and this Article.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4740, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1207. General Provisions for Payment**

- A. Payment to ADHS/DBHS. The Administration shall make a monthly capitation payment to ADHS/DBHS based on the number of acute care members at the beginning of each month. ADHS/DBHS' administrative costs shall be incorporated into the capitation payment.
- B. Claims submissions.
  - 1. ADHS/DBHS shall require all service providers to submit clean claims no later than the time-frame specified in ADHS/DBHS' contract with the Administration.
  - 2. Behavioral health service providers shall submit claims according to the payment provisions in A.A.C. R9-22-1207.
- C. Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization from a RBHA, ADHS/DBHS, a TRBHA, or a contractor.

**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed; new Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**R9-31-1208. Repealed****Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 282, effective December 16, 1999 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 13 A.A.R. 1103, effective May 5, 2007 (Supp. 07-1).

**ARTICLE 13. REPEALED**

*Article 13, consisting of Sections R9-31-1301 through R9-31-1309, repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).*

**R9-31-1301. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended

by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1302. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1303. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1304. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1305. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1306. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1307. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1308. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**R9-31-1309. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 3205, effective August 4, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 822, effective April 3, 2004 (Supp. 04-1).

**ARTICLE 14. PREMIUMS FOR A CHILD DETERMINED ELIGIBLE UNDER ARTICLE 3****R9-31-1401. Purpose**

This Article contains the requirements for the payment of a premium for a child determined eligible under Article 3 of this Chapter to the Administration by a member and the processing of a premium by the Administration.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1402. Premium Amount for a Member who is a Child Determined Eligible Under Article 3 of this Chapter**

- A. For the purposes of this Article, a premium is a monthly amount that an enrolled member pays to the Administration to remain eligible for Title XXI.
- B. When the household income is greater than 100 percent of the FPL and less than or equal to 150 percent of the FPL, the monthly premium is \$10 for one eligible child and \$15 for two or more eligible children.
- C. When household income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL, the monthly premium payment is \$40 for one eligible child and \$60 for two or more eligible children.
- D. When household income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL, the monthly premium is \$50 for one eligible child and \$70 for two or more eligible children.
- E. A household’s premium payments as specified in this Section shall not exceed five percent of a household’s gross income.
- F. A member’s newborn is enrolled immediately upon the Administration receiving notification of the child’s birth. Upon enrollment, the household’s premium is redetermined.
- G. To remain eligible, the premium amount shall be paid according to this Article.
- H. Native Americans are exempt from paying premiums.
- I. When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 9 A.A.R. 4560, effective October 1, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 504, effective February 1, 2004 (Supp. 04-1). Amended by exempt rulemaking at 10 A.A.R. 2887, effective July 1, 2004 (Supp. 04-2). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4). Amended by exempt rulemaking at 12 A.A.R. 4900, effective January 1, 2007 (Supp. 06-4).

Amended by exempt rulemaking at 15 A.A.R. 876, effective June 1, 2009 (Supp. 09-2).

**R9-31-1403. Repealed****Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1404. Hardship Exemption for a Member who is a Child Determined Eligible Under Article 3 of This Chapter**

- A. Definitions. The following definitions apply to this Section:
  1. “Major expense” means the expense is more than 10 percent of the household’s countable income under R9-31-304.
  2. “Medically necessary” has the same meaning as defined in A.A.C. R9-22-101.
- B. Hardship exemption. The Administration shall provide information to the head of household regarding the request for a hardship exemption. The Administration shall grant a hardship exemption from the disenrollment requirements under A.R.S. § 36-2982 for a household who:
  1. Is no longer able to pay the premium due to one of the hardship criteria in subsection (C), and
  2. Submits a written request for a hardship exemption and provides all necessary written information at the time of request.
- C. Hardship criteria. To be eligible for a hardship exemption, a household shall have:
  1. Medically necessary expenses or health insurance premiums that:
    - a. Are not covered under Medicaid or other insurance, and
    - b. Exceed 10 percent of the household’s countable income under R9-31-304;
  2. Unanticipated major expense, related to maintaining a residence for the household or transportation for work;
  3. A combination of medically necessary expenses under subsection (C)(1) and unanticipated major expenses under subsection (C)(2) that exceed 10 percent of the household’s countable income under R9-31-304; or
  4. Experienced the death of a household member during the month the premium was not paid.
- D. Written hardship exemption request. The Administration shall not consider a hardship exemption unless the Administration receives the written request and information under subsection (C) by the due date specified in the Administration’s notice that explains the undue hardship exemption requirements.
- E. Notification. The Administration shall notify the head of household of the approval or denial of the request for exemption and discontinuance under R9-31-310, no later than 10 days from the date the Administration received the request.
- F. Appeal and Request for hearing. The head of household may appeal and request a hearing concerning the discontinuance and denial of the hardship exemption.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Former Section R9-31-1404 renumbered to R9-31-1405; new Section R9-31-1404 made by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt

rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1405. Repealed**

##### **Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Former Section R9-31-1405 renumbered to R9-31-1406; new Section R9-31-1405 renumbered from R9-31-1404 and amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1406. Repealed**

##### **Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Former Section R9-31-1406 renumbered to R9-31-1407; new Section R9-31-1406 renumbered from R9-31-1405 and amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1407. Repealed**

##### **Historical Note**

Renumbered from R9-31-1406 and amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1408. Repealed**

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Section repealed by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1409. Payment Due Date for Current Month**

The monthly premium payment is due on the 15th day of the month for coverage of that month. This would be considered a current payment.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1410. Payment Received Date**

A payment is considered received on the date that the Administration receives and credits the payment to the member’s account.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1411. Past Due Payment**

- A.** Past due payment date. A payment is considered past due if the Administration receives the payment after the 15th day of the month.
- B.** Payment not received. If payment for a month is not received in full by the last working day of the month in which the payment is due, the Administration shall include the past and current due amounts in the next billing statement.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1412. Payment Type**

A premium shall be paid to the Administration by a:

1. Cashier’s check,
2. Personal check,
3. Money order,
4. Electronic debit, or
5. Other form approved by the Administration.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1413. Returned Check**

The Administration shall not accept a personal check when the premium has been previously paid with a personal check that was returned to the Administration because of insufficient funds.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1414. Payment In Advance**

A premium may be paid in advance.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### **R9-31-1415. Reimbursement of a Premium**

- A.** A premium paid in advance is nonrefundable, unless the member is disenrolled at least 15 days prior to the month of coverage.
- B.** A premium paid during an appeal and request for hearing process is applied as specified in R9-31-1419.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 9 A.A.R. 4560, effective October 1, 2003 (Supp. 03-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### **R9-31-1416. Allocation of Payment for an Eligible Member**

Except for payments specified in R9-31-1419 of this Article, all payments received for eligible members shall first be applied to any past due amounts for prior months owed to the Administration for a child determined eligible under Article 3 of this Chapter, next to the unpaid enrollment fee for a parent eligible under Article 17, and then to the past due amounts for prior months owed to the Administration for a parent determined eligible under Article 17 of this Chapter. Any remaining amounts shall first be applied to the amount due for the current month for a child eligible under Article 3 of this Chapter and then to the amount due for the current month for a parent, eligible under Article 17 of this Chapter.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1417. Change in Premium Amount**

- A. When there is a decrease in the premium amount and the change is processed by the 25th day of the month, then the effective date of the change shall begin on first day following the month in which the amount of the premium change is processed.
- B. When there is a decrease in the premium amount and the change is processed after the 25th day of the month, then the effective date of the change shall begin on the first day of the second month in which the amount of the premium change is processed.
- C. When there is an increase in the premium amount, the effective date of the change shall begin with the first month following advance notice of at least ten days.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1418. Discontinuance for Failure to Pay Premium**

- A. Discontinuance notice. The Administration shall send an adverse action notice to discontinue eligibility if the Administration does not receive the past and current due premium amounts by the 15th day of the current month. The Administration shall follow the discontinuance notice requirements under R9-31-310(B).
- B. Discontinuance rescinded. The Administration shall rescind the discontinuance and continue eligibility if the past due amount for at least one prior month is received by the Administration in full before the effective date of the discontinuance.
- C. Discontinuance of eligibility. Except as provided in R9-31-1419, the Administration shall discontinue eligibility on the effective date of the discontinuance if the past due amount for at least one prior month is not received by the Administration in full before the effective date of the discontinuance.
- D. Notwithstanding subsection (A), the Administration shall not discontinue eligibility for the enrolled members of the household until the Administration has not received, by the 15th day of the month in which the Administration sends the adverse action notice, premium amounts due for the past two months and the current month for persons who:
  1. Have been continuously eligible since June 2004,
  2. Were required to pay a premium under R9-31-1402(B) for the month of July 2004,
  3. Were required to pay any premium under R9-31-1402 for the month of August 2004, and
  4. As of August 31, 2004, had not paid the premiums required for July 2004 and August 2004.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 10 A.A.R. 3895, effective August 30, 2004 (Supp. 04-3). Amended by exempt rulemaking at 10 A.A.R. 4268, effective October 1, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1419. Premium Payment During the Appeal and Request for Hearing Process**

- A. Discontinuance of eligibility. To receive coverage from the time an appeal and request for hearing is filed for a discontinuance of eligibility until a Director’s decision is made.
  1. A member shall:
    - a. File an appeal and request for hearing prior to the effective date of the discontinuance.

- b. Submit the full monthly premium amount to the Administration prior to the date of the discontinuance, and
  - c. Continue to pay the full monthly premium amount each month during the hearing process.
2. Failure of the member to pay the full premium shall result in the loss of eligibility effective the first of the next month.
3. If the decision is upheld, the Administration shall not refund any premium amounts that have been paid during the hearing process.
- B. Increase in premium amount. To stop the Administration from increasing the premium amount from the time an appeal and request for hearing is filed until a Director’s decision is made.
  1. A member shall file an appeal and request for hearing prior to the effective date of the action. The member shall pay the lower premium amount until the decision is made.
  2. If the decision to increase the premium is upheld, the member shall be responsible for paying the higher premium retroactively from the proposed effective date of the increase in the premium amount that is being appealed.
- C. Imposition of a premium. To receive coverage from the time an appeal and request for hearing is filed for an imposition of a premium until a Director’s decision is made.
  1. A member shall file an appeal and request for hearing in accordance with the time-frame as specified in R9-34-107.
  2. A member shall pay the premium as billed by the Administration.
  3. If the decision determines the imposition of the premium is incorrect then the premium will be refunded to the member.
- D. Method of payment. To continue coverage a member shall pay the premium by:
  1. Cashier’s check,
  2. Money order, or
  3. Other form approved by the Administration.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1420. Payment of a Premium**

When a member was discontinued with an unpaid premium, the parent or other responsible person shall pay the past due premium amounts for a child to the Administration before eligibility for the child under this Article can be approved.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**ARTICLE 15. RESERVED****ARTICLE 16. SERVICES FOR AMERICAN INDIANS****R9-31-1601. General Requirements**

- A. An American Indian who is a member may receive:
  1. Covered acute care services specified in this Chapter from:
    - a. Indian Health Service (IHS) under A.R.S. § 36-2982 if IHS has a signed agreement with the Administration,
    - b. A Tribal Facility under A.R.S. § 36-2982,
    - c. A contractor under A.R.S. § 36-2901, or

- d. An AHCCCS registered provider.
- 2. Covered behavioral health care services as specified in this Chapter from:
  - a. IHS under A.R.S. § 36-2982 if IHS has a signed agreement with the Administration,
  - b. A Tribal Facility under A.R.S. § 36-2982, or
  - c. A RBHA or TRBHA.

**B.** IHS, a Tribal facility, or a referred provider shall meet the requirements in this Chapter and A.A.C. Chapter 22, Articles 2 and 7 to receive reimbursement for AHCCCS-covered services. Title 9 A.A.C. 22, Articles 2 and 7 are applicable to reimbursement for AHCCCS-covered services provided to an American Indian member under the KidsCare program, except that the term “IHS,” “Tribal facility,” or “referred provider” is substituted for “provider.”

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1602. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1603. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1604. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Subsection labeling in subsection (A) amended to correct manifest typographical error (Supp. 01-3). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1605. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1606. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1607. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1608. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1609. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1610. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1611. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3276, effective September 11, 2007 (Supp. 07-3). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### R9-31-1612. Repealed

#### Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-1613. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-1614. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 4195, effective November 6, 2007 (Supp. 07-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-1615. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-1616. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 4660, effective January 1, 2005 (04-4). Amended by final rulemaking at 11 A.A.R. 3854, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1617. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 2365, effective May 9, 2002 (Supp. 02-2). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1618. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1619. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 3171, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1620. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3246, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1621. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1622. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001 (Supp. 01-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

**R9-31-1623. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Section repealed by final rulemaking at 8 A.A.R. 3350, effective July 15, 2002 (Supp. 02-3).

**R9-31-1624. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Section repealed by final rulemaking at 13 A.A.R. 671, effective April 7, 2007 (Supp. 07-1).

**R9-31-1625. Repealed****Historical Note**

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1998, Ch. 4, § 11, 4th Special Session, effective October 23, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 3670, effective September 10, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 5846, effective December 7, 2001

(Supp. 01-4). Section repealed by final rulemaking at 17 A.A.R. 1681, effective August 2, 2011 (Supp. 11-3).

#### **ARTICLE 17. ELIGIBILITY, ENROLLMENT AND COST SHARING FOR A PARENT**

*Article 17, consisting of Sections R9-31-1701 through R9-31-1724, made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).*

##### **R9-31-1701. General**

- A.** Purpose. This Article contains the criteria to determine the eligibility, enrollment, and cost sharing for a parent under A.R.S. §§ 36-2982, 36-2983 and Laws 2006, Ch. 331, § 32. Unless otherwise noted in this Chapter, the provisions of this Chapter apply to a parent eligible under this Article.
- B.** Expenditure limit and enrollment
  1. Eligibility of a parent shall be based on the FPL established in Laws 2006, Ch. 331, § 32, subject to the availability of monies. If the Director determines that monies are insufficient for the program, the eligibility agency shall suspend accepting new applications and shall deny all pending applications.
  2. If the federal government eliminates federal funding for the program, the eligibility agency shall deny all pending applications and shall discontinue an eligible parent after providing advance notice that the program shall terminate under A.R.S. § 36-2985.
  3. A parent is not entitled to a hearing under R9-31-1724 of this Article, if the program is suspended or terminated.
- C.** Definition
  1. For the purposes of this Article, a child is:
    - a. A child, except for a deemed newborn, under A.R.S. § 36-2901(6)(a)(ii), who is determined eligible under 9 A.A.C. 22, Article 14, or
    - b. A child, except for a deemed newborn, under A.R.S. § 36-2981(6) who is determined eligible under Article 3 of this Chapter. A child in the guaranteed enrollment period under R9-31-307 or a newborn under R9-31-309, is not considered a child under this Article.
  2. For the purposes of this Article, a parent is defined under Laws 2006, Ch. 331, § 32 and also includes a stepparent. A parent of an 18 year old child under subsection (C)(1)(a) is not eligible under this Article.
  3. For the purposes of this Article, eligibility agency means either DES or the Administration, whichever agency made the eligibility determination for the child.
- D.** Services. A parent eligible under this Article shall receive medically necessary services under 9 A.A.C. 22, Article 2.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4). Amended by exempt rulemaking at 12 A.A.R. 4900, effective January 1, 2007 (Supp. 06-4).

##### **R9-31-1702. Application**

- A.** Application form. A parent who wants to apply for eligibility under this Article shall apply using an application approved by the Administration.
- B.** Application process. For a parent of a child under R9-31-1701(C)(1)(a), the Administration shall process an application under A.A.C. R9-22-1405(A) through (F), R9-22-1411(A) and (C), and R9-22-1407. For a parent of a child under R9-31-

1701(C)(1)(b), the Administration shall process an application under R9-31-302(A) through (E).

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5150, effective January 3, 2004 (Supp. 03-4).

##### **R9-31-1703. Parent Eligibility Criteria**

To be eligible, a parent shall be a parent of, and living with, a child as defined in R9-31-1701(C).

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

##### **R9-31-1704. Income**

To be eligible, the countable income shall be determined under R9-31-304 and shall not exceed the percentage of FPL established in Laws 2006, Ch. 331, § 32. For a parent of a child under R9-31-1701(C)(1)(a), the countable income shall include a stepparent’s income if the stepparent is applying.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4). Amended by exempt rulemaking at 12 A.A.R. 4900, effective January 1, 2007 (Supp. 06-4).

##### **R9-31-1705. Citizenship**

To be eligible, a parent shall be a United States citizen or a qualified alien as specified in A.R.S. § 36-2903.03(B).

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

##### **R9-31-1706. Residency**

To be eligible, a parent shall be a current resident of the state of Arizona.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

##### **R9-31-1707. Social Security Number (SSN)**

To be eligible, a parent shall provide a SSN or apply for a SSN within 30 days after submitting an application.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

##### **R9-31-1708. Age**

To be eligible, a parent shall be age 19 or older.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

##### **R9-31-1709. Ineligibility for Title XIX**

To be eligible, a parent shall not be eligible for Title XIX under A.R.S. § 36-2901(6). A parent is not eligible under this Article if ineligibility for Title XIX is due to the parent’s refusal to apply for Title XIX or the parent’s noncompliance with a Title XIX eligibility requirement.

##### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1710. Institutionalized Person**

To be eligible, a parent shall not be an inmate of a public institution or a patient in an IMD under A.R.S. § 36-2983(G), unless federal financial participation is available.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1711. Other Health Coverage**

To be eligible, a parent shall not be covered under an employer's group health insurance plan, family or individual health insurance, or other health insurance, including Medicare. Eligibility for the Indian Health Service is not considered other health coverage.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1712. State Health Benefits**

To be eligible, a parent shall not be eligible for health coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1713. Prior Health Insurance Coverage**

To be eligible, a parent shall not have been covered by health insurance as defined in R9-31-1711 or R9-31-1712 of this Article, during the previous three months, unless that health insurance was discontinued due to the involuntary loss of employment or other involuntary reason.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1714. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Section repealed by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1715. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 9 A.A.R. 730, effective March 1, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1716. Verification**

To be eligible, a parent shall provide verification or authorize the release of verification for all information necessary to complete the determination of eligibility.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1717. Assignment of Rights**

To be eligible, a parent shall assign rights to any first- or third-party coverage of medical care as specified in Article 10 of this Chapter.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1718. Approval and Effective Date of Eligibility**

- A.** Approval. An eligibility approval under this Article shall be determined by the Administration. The Administration shall follow the approval notice requirements in R9-31-310(A).
- B.** Effective date of eligibility. The effective date of eligibility is the later of one of the following:
  1. The first day of the month following the eligibility determination for a determination made on or before the 25th day of the month,
  2. The first day of the second month following the eligibility determination for a determination made after the 25th day of the month, or
  3. The first day of the month in which the parent meets all eligibility requirements in this Article.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1719. Enrollment**

There is no guaranteed enrollment period for a parent eligible under this Article.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1720. Change and Redetermination**

- A.** Reporting a change. A parent eligible under this Article shall report the following changes to the eligibility agency:
  1. An increase or decrease in income,
  2. A change of address,
  3. A move out of state,
  4. An addition or departure of a household member,
  5. Any health coverage under private or group health insurance,
  6. Eligibility for health coverage under a state health benefit plan based on a family member's employment with a public agency in the state of Arizona,
  7. Incarceration of a member,
  8. Becoming an inpatient in an IMD, and
  9. Receipt of a SSN.
- B.** Verification. If required verification is needed and requested by the eligibility agency as a result of a change specified in subsection (A), to determine the impact on eligibility, and is not received within 10 days, the Administration shall send a notice to discontinue eligibility.
- C.** Redetermination. The eligibility agency shall complete a redetermination of each parent's eligibility at least once every 12 months.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

**R9-31-1721. Denial of Eligibility**

- A.** For a parent of a child under R9-31-1701(C)(1)(a):
  1. DES shall deny eligibility under this Article if the parent does not meet a requirement under this Article except for R9-31-1726 of this Article. DES shall follow the denial notice requirements in A.A.C. R9-22-1411(C); and
  2. The Administration shall deny eligibility under this Article if the parent does not meet the requirement under R9-31-1726 of this Article. The Administration shall follow the denial notice requirements under R9-31-310(A)(2).
- B.** For a parent of a child under R9-31-1701(C)(1)(b), the Administration shall deny eligibility under this Article if any one of



the conditions of eligibility listed in this Article is not met. The Administration shall follow the denial notice requirements under R9-31-310(A)(2).

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1722. Discontinuance of Eligibility and Notice Requirements

- A. The Administration shall discontinue eligibility under this Article if any one of the conditions of eligibility listed in this Article is not met.
- B. The Administration shall send an adverse action notice to discontinue eligibility if the Administration does not receive a payment that is equal to the past and current due premium amounts by the 15th day of the current month.
- C. The Administration shall follow the discontinuance notice requirements under R9-31-310(B).

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1723. Newborn Eligibility

A child born to a mother eligible under R9-31-1701(C)(1)(a) shall follow the newborn eligibility under R9-22-1422. A child born to a mother eligible under R9-31-1701(C)(1)(b) shall follow the newborn eligibility under R9-31-309.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4).

#### R9-31-1724. Premium and Enrollment Fees

- A. For the purposes of this Article:
  1. A premium is a monthly payment that an enrolled member pays to the Administration to remain eligible.
  2. An enrollment fee is the amount required by subsection (C)(4), which shall be paid to the Administration by a member who is a parent determined eligible under this Article. The enrollment fee and the first month's premium will be billed and due concurrently with the first month's payment.
  3. To remain eligible, a parent shall pay the premium amount and enrollment fee according to this Article.
- B. Premiums
  1. When countable income is equal to or greater than 100 percent but less than 150 percent of the FPL, the monthly premium for the family is three percent of the countable income.
  2. When countable income is equal to or greater than 150 percent but less than 175 percent of the FPL, the monthly premium for the family is five percent of the countable income.
  3. When countable income is equal to or greater than 175 percent but less than or equal to 200 percent of the FPL, the monthly premium for the family is five percent of the countable income.
  4. Native Americans are exempt from paying premiums.
  5. When a premium is paid for a household including the parents of a child eligible under Article 3 as described in Article 17, no separate premium is charged for the child under this Section.
- C. Enrollment Fees

1. A parent enrolled on or after January 1, 2005 will be charged an enrollment fee.
  - a. If a parent who has paid the enrollment fee does not receive coverage under this Article for a period of at least 24 months, the parent will be charged another enrollment fee if the parent is approved again under this Article.
  - b. If a parent who has paid the enrollment fee is discontinued under this Article for a period of less than 24 months, the parent will not be charged an enrollment fee when the parent is approved again.
2. A parent who was enrolled before January 1, 2005 will not be charged an enrollment fee unless the parent is discontinued under this Article and approved again.
3. Native Americans are exempt from paying the enrollment fee.
4. The enrollment fee amount:
  - a. For each eligible parent is \$15 when countable income is less than or equal to 150 percent of the FPL.
  - b. For each eligible parent is \$20 when countable income is greater than 150 percent of the FPL and less than or equal to 175 percent of the FPL.
  - c. For each eligible parent is \$25 when countable income is greater than 175 percent of the FPL and less than or equal to 200 percent of the FPL.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 5007, effective January 1, 2003 (Supp. 02-4). Amended by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4). Amended by exempt rulemaking at 12 A.A.R. 4900, effective January 1, 2007 (Supp. 06-4). Amended by exempt rulemaking at 15 A.A.R. 876, effective June 1, 2009 (Supp. 09-2).

#### R9-31-1725. Appeal and Request for Hearing Process

- A. Denial. If DES denies a parent under R9-31-1721 of this Article, the appeal and request for hearing process shall be conducted under A.A.C. R9-22-1433. If the Administration denies a parent under R9-31-1721 of this Article, the appeal and request for hearing process shall be conducted under 9 A.A.C. 34.
- B. Discontinuance. If the Administration discontinues a parent under R9-31-1722 of this Article, the appeal and request for hearing process shall be conducted under 9 A.A.C. 34.
- C. Coverage for Discontinuance. Except as provided in this Section, the Administration shall discontinue eligibility on the effective date of the discontinuance if the past due amount for at least one prior month is not received by the Administration in full before the effective date of the discontinuance.
- D. Discontinuance rescinded. The Administration shall rescind the discontinuance and continue eligibility if the past due amount for at least one prior month is received by the Administration in full before the effective date of the discontinuance.
- E. Discontinuance of eligibility. To receive coverage from the time an appeal and request for hearing is filed for a discontinuance of eligibility until a Director's decision is made.
  1. A member shall:
    - a. File an appeal and request for hearing prior to the effective date of the discontinuance.
    - b. Submit the full monthly premium amount to the Administration prior to the date of the discontinuance, and
    - c. Continue to pay the full monthly premium amount each month during the hearing process.

## Arizona Health Care Cost Containment System – Children’s Health Insurance Program

2. Failure of the member to pay the full monthly premium shall result in the loss of eligibility effective the first day of the next month.
3. If the decision is upheld, the Administration shall not refund any premium amounts that have been paid during the hearing process.

**F.** Increase in premium amount. To stop the Administration from increasing the premium amount from the time an appeal and request for hearing is filed until a Director’s decision is made.

1. A member shall file an appeal and request for hearing prior to the effective date of the action.
2. If the decision to increase the premium is upheld, the member shall be responsible for paying the higher premium retroactively from the proposed effective date of the increase in the premium amount that is being appealed.

**G.** Imposition of an enrollment fee and premium. To receive coverage from the time an appeal and request for hearing is filed for an imposition of an enrollment fee and premium until a Director’s decision is made.

1. A member shall file an appeal and request for hearing in accordance with the time-frame as specified in R9-34-107.
2. A member shall pay the enrollment fee and premium as billed by the Administration.
3. If the decision determines the imposition of the enrollment fee and premium is incorrect then the enrollment fee and premium will be refunded to the member.

**H.** Method of payment. To continue coverage a member shall pay the premium by:

1. Cashier’s check,
2. Money order, or
3. Other form approved by the Administration.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1726. Payment of Outstanding Premium and Enrollment Fees

As a condition of eligibility, a parent shall be required to pay any unpaid enrollment fee and premiums owed to the Administration that were previously incurred. The unpaid enrollment fee and unpaid premiums consist of:

1. All unpaid enrollment fees and premiums for the parent that were incurred prior to becoming eligible,
2. All unpaid premiums for the parent’s children, and
3. All unpaid enrollment fees and premiums for the parent’s spouse with whom the parent resides, and with whom the parent resided at the time the premium and enrollment fee was incurred.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1727. Payment Due Date for Current Month

- A.** The monthly premium payment is due on the 15th day of the month for coverage of that month. This would be considered a current payment.
- B.** The enrollment fee is due with the first monthly premium payment on the 15th day of the month for coverage. This would be considered a current payment.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1728. Payment Received Date

A payment is considered received on the date that the Administration receives and credits the payment to the member’s account.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1729. Past Due Payment

**A.** Past due payment date. A payment is considered past due if the Administration does not receive the payment by the 15th day of the month.

**B.** Payment not received. If payment for a month is not received in full by the last working day of the month in which the payment is due, the Administration shall include the past and current due amounts in the next billing statement.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1730. Payment Type

A premium and an enrollment fee shall be paid to the Administration by a:

1. Cashier’s check,
2. Personal check,
3. Money order,
4. Electronic debit, or
5. Other form approved by the Administration.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1731. Returned Check

The Administration shall not accept a personal check when the premium or enrollment fee has been previously paid with a personal check that was returned to the Administration because of insufficient funds.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1732. Payment In Advance

A premium may be paid in advance.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1733. Reimbursement of a Premium

**A.** A premium paid in advance is nonrefundable, unless the member is disenrolled at least 15 days prior to the month of coverage.

**B.** A premium and enrollment fee paid during an appeal and request for hearing process is applied as specified in R9-31-1724.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 477, effective January 1, 2005 (Supp. 04-4).

#### R9-31-1734. Allocation of Payment for an Eligible Member

Except for payments specified in R9-31-1724 of this Article, all payments received for eligible members shall first be applied to any past due amounts for prior months owed to the Administration for a child determined eligible under Article 3 of this Chapter, next to the unpaid enrollment fee for a parent eligible under this Article, and then to the past due amounts for prior months owed to the Administration for a parent determined eligible under this Article. Any remaining amounts shall first be applied to the amount due for the

current month for a child eligible under Article 3 of this Chapter and then to the amount due for the current month for a parent, eligible under this Article.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R.  
477, effective January 1, 2005 (Supp. 04-4).

**R9-31-1735. Change in Premium Amount**

**A.** When there is a decrease in the premium amount and the change is processed by the 25th day of the month, then the effective date of the change shall begin on first day following the month in which the amount of the premium change is processed.

- B.** When there is a decrease in the premium amount and the change is processed after the 25th day of the month, then the effective date of the change shall begin on the first day of the second month in which the amount of the premium change is processed.
- C.** When there is an increase in the premium amount, the effective date of the change shall begin with the first month following advance notice of at least ten days.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R.  
477, effective January 1, 2005 (Supp. 04-4).

This page intentionally left blank.



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### TITLE 12. NATURAL RESOURCES

#### Table of Contents

<input type="checkbox"/> <b>REMOVE</b>	Supp. 12-1 pages i-ii	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with page i
--	--------------------------	---	------------------------------

#### Chapter 1 – Radiation Regulatory Agency

Sections, Parts, Exhibits, Tables or Appendices modified

R12-1-101, R12-1-303, R12-1-305 through R12-1-306, R12-1-310, R12-1-320, R12-1-710, Article 10, Exhibit A, R12-1-1501, R12-1-1509 through R12-1-1510, R12-1-1513

<input type="checkbox"/> <b>REMOVE</b>	Supp. 10-3 pages 1-238	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-241
--	---------------------------	---	-----------------------------------

This page intentionally left blank.

**TITLE 12. NATURAL RESOURCES****CHAPTER 1. RADIATION REGULATORY AGENCY**

Authority: A.R.S. § 30-651 et seq.

**ARTICLE 1. GENERAL PROVISIONS**

## Section

R12-1-101.	Scope and Incorporated Materials
R12-1-102.	Definitions
R12-1-103.	Exemptions
R12-1-104.	Prohibited Uses
R12-1-105.	Quality Factors for Converting Absorbed Dose to Dose Equivalent
R12-1-106.	Units of Activity
R12-1-107.	Misconduct
R12-1-108.	Repealed
R12-1-109.	Repealed
R12-1-110.	Repealed
R12-1-111.	Repealed
R12-1-112.	Renumbered
Appendix A.	Repealed
Appendix B.	Repealed

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

## Section

R12-1-201.	Exemptions
R12-1-202.	Application for Registration of Ionizing Radiation Producing Machines
R12-1-203.	Application for Registration of Servicing and Installation
R12-1-204.	Issuance of Notice of Registration
R12-1-205.	Expiration of Notice of Registration or Certification
R12-1-206.	Assembly, Installation, Removal from Service, and Transfer
R12-1-207.	Reciprocal Recognition of Out-of-state Radiation Machines
R12-1-208.	Certification of Mammography Facilities
R12-1-209.	Notifications
Appendix A.	Application Information
ARRA-4.	Repealed
ARRA-4X.	Repealed
ARRA-4XT.	Repealed
ARRA-4PAT.	Repealed
ARRA-4IG.	Repealed
ARRA-4IR.	Repealed
ARRA-4PAR.	Repealed
ARRA-4PA.	Repealed
ARRA-13.	Repealed
ARRA-1004.	Repealed
ARRA-1005.	Repealed
ARRA-1030.	Repealed
ARRA-1050.	Repealed
ARRA-1070.	Repealed
ARRA-1090.	Repealed

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**

## Section

R12-1-301.	Ownership, Control, or Transfer of Radioactive Material
R12-1-302.	Source Material; Exemptions
R12-1-303.	Radioactive Material Other Than Source Material; Exemptions
R12-1-304.	License Types

R12-1-305.	General Licenses – Source Material
R12-1-306.	General License – Radioactive Material Other Than Source Material
R12-1-307.	Repealed
R12-1-308.	Filing Application for Specific Licenses
R12-1-309.	General Requirements for Issuance of Specific Licenses
R12-1-310.	Special Requirements for Issuance of Specific Broad Scope Licenses
R12-1-311.	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material
R12-1-312.	Issuance of Specific Licenses
R12-1-313.	Specific Terms and Conditions
R12-1-314.	Expiration of License
R12-1-315.	Renewal of License
R12-1-316.	Amendment of Licenses at Request of Licensee
R12-1-317.	ARRA Action on Applications to Renew or Amend
R12-1-318.	Transfer of Radioactive Material
R12-1-319.	Modification, Revocation, or Termination of a License
R12-1-320.	Reciprocal Recognition of Licenses
R12-1-321.	Repealed
R12-1-322.	The Need for an Emergency Plan for Response to a Release of Radioactive Material
R12-1-323.	Financial Assurance and Recordkeeping for Decommissioning
R12-1-324.	Public Notification and Public Participation
R12-1-325.	Timeliness in Decommissioning Facilities
R12-1-326.	Repealed
R12-1-327.	Repealed
R12-1-328.	Repealed
R12-1-329.	Repealed
R12-1-330.	Repealed
R12-1-331.	Repealed
R12-1-332.	Repealed
R12-1-333.	Repealed
R12-1-334.	Repealed
R12-1-335.	Repealed
R12-1-336.	Repealed
R12-1-337.	Repealed
R12-1-338.	Repealed
R12-1-339.	Repealed
R12-1-340.	Repealed
R12-1-341.	Repealed
R12-1-342.	Repealed
R12-1-343.	Repealed
R12-1-344.	Repealed
R12-1-345.	Repealed
R12-1-346.	Repealed
R12-1-347.	Repealed
R12-1-348.	Repealed
Exhibit A.	Exempt Concentrations
Exhibit B.	Exempt Quantities
Exhibit C.	Limits for Class B and C Broad Scope Licenses (R12-1-310)
Exhibit D.	Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R12-1-322)
Exhibit E.	Application Information

**ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**

*Article 4, consisting of Sections R12-1-401 through R12-1-447 and Appendices A through E adopted effective August 10, 1994 (Supp. 94-3).*

*Article 4, consisting of Sections R12-1-401 through R12-1-431, Appendices A and B, and forms ARRA-6, ARRA-7, and ARRA-8, repealed effective August 10, 1994 (Supp. 94-3).*

**Section**

R12-1-401.	Purpose
R12-1-402.	Scope
R12-1-403.	Definitions
R12-1-404.	Units and Quantities
R12-1-405.	Form of Records
R12-1-406.	Implementation
R12-1-407.	Radiation Protection Programs
R12-1-408.	Occupational Dose Limits for Adults
R12-1-409.	Summation of External and Internal Doses
R12-1-410.	Determination of External Dose from Airborne Radioactive Material
R12-1-411.	Determination of Internal Exposure
R12-1-412.	Determination of Prior Occupational Dose
R12-1-413.	Planned Special Exposures
R12-1-414.	Occupational Dose Limits for Minors
R12-1-415.	Dose Equivalent to an Embryo or Fetus
R12-1-416.	Dose Limits for Individual Members of the Public
R12-1-417.	Testing for Leakage or Contamination of Sealed Sources
R12-1-418.	Surveys and Monitoring
R12-1-419.	Conditions Requiring Individual Monitoring of External and Internal Occupational Dose
R12-1-420.	Control of Access to High Radiation Areas
R12-1-421.	Control of Access to Very-high Radiation Areas
R12-1-422.	Control of Access to Irradiators (Very-high Radiation Areas)
R12-1-423.	Use of Process or Other Engineering Controls
R12-1-424.	Use of Other Controls
R12-1-425.	Use of Individual Respiratory Protection Equipment
R12-1-426.	Security of Stored Sources of Radiation
R12-1-427.	Control of Sources of Radiation Not in Storage
R12-1-428.	Caution Signs
R12-1-429.	Posting
R12-1-430.	Exceptions to Posting Requirements
R12-1-431.	Labeling Containers and Radiation Machines
R12-1-432.	Labeling Exemptions
R12-1-433.	Procedures for Receiving and Opening Packages
R12-1-434.	General Requirements for Waste Disposal
R12-1-435.	Method for Obtaining Approval of Proposed Disposal Procedures
R12-1-436.	Disposal by Release into Sanitary Sewerage System
R12-1-437.	Treatment or Disposal by Incineration
R12-1-438.	Disposal of Specific Wastes
R12-1-439.	Transfer for Disposal and Manifests
R12-1-440.	Compliance with Environmental and Health Protection Regulations
R12-1-441.	Records of Waste Disposal
R12-1-442.	Agency Inspection of Shipments of Waste
R12-1-443.	Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation
R12-1-444.	Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits
R12-1-445.	Notification of Incidents
R12-1-446.	Notifications and Reports to Individuals
R12-1-447.	Vacating Premises

R12-1-448.	Additional Reporting
R12-1-449.	Survey Instruments and Pocket Dosimeters
R12-1-450.	Sealed Sources
R12-1-451.	Termination of a Radioactive Material License or a Licensed Activity
R12-1-452.	Radiological Criteria for License Termination
R12-1-453.	Reports to Individuals of Exceeding Dose Limits
R12-1-454.	Nationally Tracked Sources
R12-1-455.	Security Requirements for Portable Gauges
Appendix A.	Assigned Protection Factors for Respirators
Appendix B.	Annual Limits of Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage
Appendix C.	Quantities of Licensed or Registered Material Requiring Labeling
Appendix D.	Classification and Characteristics of Low-level Radioactive Waste
Appendix E.	Quantities for Use with Decommissioning
ARRA-6.	Repealed
ARRA-7.	Repealed
ARRA-8.	Repealed

**ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY****Section**

R12-1-501.	Definitions
R12-1-502.	License Requirements
R12-1-503.	Performance Requirements for Equipment
R12-1-504.	Radiation Survey Instruments
R12-1-505.	Leak Testing and Replacement of Sealed Sources
R12-1-506.	Quarterly Inventory
R12-1-507.	Utilization Logs
R12-1-508.	Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment
R12-1-509.	Surveillance
R12-1-510.	Radiographic Operations
R12-1-511.	Repealed
R12-1-512.	Radiation Safety Officer (RSO)
R12-1-513.	Form of Records
R12-1-514.	Limits on External Radiation Levels from Storage Containers and Source Changers
R12-1-515.	Locking Radiographic Exposure Devices, Storage Containers, and Source Changers
R12-1-516.	Records of Receipt and Transfer of Sealed Sources
R12-1-517.	Posting
R12-1-518.	Labeling, Storage, and Transportation
R12-1-519.	Repealed
R12-1-520.	Repealed
R12-1-521.	Repealed
R12-1-522.	Operating and Emergency Procedures
R12-1-523.	Personnel Monitoring
R12-1-524.	Supervision of a Radiographer's Assistant
R12-1-525.	Notification of Field Work
R12-1-526.	Reserved
R12-1-527.	Reserved
R12-1-528.	Reserved
R12-1-529.	Reserved
R12-1-530.	Reserved
R12-1-531.	Security
R12-1-532.	Posting
R12-1-533.	Radiation Surveys
R12-1-534.	Repealed
R12-1-535.	Notifications



## Radiation Regulatory Agency

R12-1-536.	Reserved
R12-1-537.	Reserved
R12-1-538.	Reserved
R12-1-539.	Permanent Radiographic Installations
R12-1-540.	Location of Documents and Records
R12-1-541.	Repealed
R12-1-542.	Repealed
Appendix A.	Repealed
R12-1-543.	Training
Appendix A.	Standards for Organizations that Provide Radiography Certification

**ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**

## Section

R12-1-601.	Repealed
R12-1-602.	Definitions
R12-1-603.	Operational Standards, Shielding, and Darkroom Requirements
R12-1-604.	General Procedures
R12-1-605.	X-ray Machine Standards
R12-1-606.	Fluoroscopic and Fluoroscopic Treatment Simulator Systems
R12-1-607.	Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Fluoroscopic and Dental Intraoral Radiographic Systems
R12-1-608.	Mobile Diagnostic Radiographic and Fluoroscopic Systems, Except Dental Intraoral Radiographic Systems
R12-1-609.	Chest Photofluorographic Systems
R12-1-610.	Dental Intraoral Radiographic Systems
R12-1-611.	Therapeutic X-ray Systems of Less Than 1 MeV
R12-1-612.	Computerized Tomographic Systems
R12-1-613.	Veterinary Medicine Radiographic Systems
R12-1-614.	Mammography
R12-1-615.	Repealed
Appendix A.	Information Submitted to the Agency According to R12-1-604(A)(3)(c)
Appendix B.	Repealed

**ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL**

## Section

R12-1-701.	License Required
R12-1-702.	Definitions
R12-1-703.	License for Medical Use of Radioactive Material
R12-1-704.	Provisions for the Protection of Human Research Subjects
R12-1-705.	Authority and Responsibilities for the Radiation Protection Program
R12-1-706.	Supervision
R12-1-707.	Written Directives
R12-1-708.	Procedures for Administrations Requiring a Written Directive
R12-1-709.	Sealed Sources or Devices for Medical Use
R12-1-710.	Radiation Safety Officer Training
R12-1-711.	Authorized Medical Physicist Training
R12-1-712.	Authorized Nuclear Pharmacist Training
R12-1-713.	Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments
R12-1-714.	Authorization for Calibration, Transmission, and Reference Sources
R12-1-715.	Requirements for Possession of Sealed Sources and Brachytherapy Sources

R12-1-716.	Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns
R12-1-717.	Release of Individuals Containing Radioactive Material
R12-1-718.	Mobile Medical Service
R12-1-719.	Training for Uptake, Dilution, and Excretion Studies
R12-1-720.	Permissible Molybdenum-99 Concentrations
R12-1-721.	Training for Imaging and Localization Studies Not Requiring a Written Directive
R12-1-722.	Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive
R12-1-723.	Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma
R12-1-724.	Surveys after Brachytherapy Source Implant and Removal; Accountability
R12-1-725.	Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R12-1-717
R12-1-726.	Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems
R12-1-727.	Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease
R12-1-728.	Training for Use of Sealed Sources for Diagnosis
R12-1-729.	Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit
R12-1-730.	Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit
R12-1-731.	Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units
R12-1-732.	Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units
R12-1-733.	Dosimetry Equipment
R12-1-734.	Full Calibration Measurements on Teletherapy Units
R12-1-735.	Full Calibration Measurements on Remote Afterloader Units
R12-1-736.	Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units
R12-1-737.	Periodic Spot-checks for Teletherapy Units
R12-1-738.	Periodic Spot-checks for Remote Afterloader Units
R12-1-739.	Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units
R12-1-740.	Additional Requirements for Mobile Remote Afterloader Units
R12-1-741.	Additional Radiation Surveys of Sealed Sources used in Radiation Therapy
R12-1-742.	Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units
R12-1-743.	Therapy-related Computer Systems
R12-1-744.	Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units
R12-1-745.	Report and Notification of a Medical Event
R12-1-746.	Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child
Exhibit A.	Medical Use Groups

**ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS**

## Section

- R12-1-801. Scope
- R12-1-802. Definitions
- R12-1-803. Enclosed-beam X-ray Systems
- R12-1-804. Open-beam X-ray Systems
- R12-1-805. Administrative Responsibilities
- R12-1-806. Operating Requirements
- R12-1-807. Surveys
- R12-1-808. Posting
- R12-1-809. Training

**ARTICLE 9. PARTICLE ACCELERATORS**

## Section

- R12-1-901. Purpose and Scope
- R12-1-902. Definitions
- R12-1-903. General Registration Requirements
- R12-1-904. Registration of Particle Accelerators Used in the Practice of Medicine
- R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks
- R12-1-906. Limitations
- R12-1-907. Shielding and Safety Design
- R12-1-908. Particle Accelerator Controls and Interlock Systems
- R12-1-909. Warning Systems
- R12-1-910. Operating Procedures
- R12-1-911. Radiation Surveys
- R12-1-912. Repealed
- R12-1-913. Misadministration
- R12-1-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine

Appendix A. Quality Control Program

**ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS**

## Section

- R12-1-1001. Purpose and Scope
- R12-1-1002. Posting Notices for Workers
- R12-1-1003. Instruction for Workers
- R12-1-1004. Notifications and Reports to Individuals
- R12-1-1005. Licensee, Registrant, and Worker Representation During Agency Inspection
- R12-1-1006. Consultation with Workers During Inspections
- R12-1-1007. Inspection Requests by Workers
- R12-1-1008. Inspection not Warranted; Review
- Exhibit A. Form ARRA-6 (2012) Notice to Employees

**ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**

*Article 11, consisting of R12-1-1101 through R12-1-1104, repealed effective June 13, 1997 (Supp. 97-2).*

## Section

- R12-1-1101. Repealed
- R12-1-1102. Definitions
- R12-1-1103. Repealed
- R12-1-1104. Registration Requirements
- R12-1-1105. Reserved
- R12-1-1106. Equipment Performance
- R12-1-1107. Reserved
- R12-1-1108. Radiation Survey Instruments
- R12-1-1109. Reserved
- R12-1-1110. Quarterly Inventory
- R12-1-1111. Reserved
- R12-1-1112. Utilization Logs

- R12-1-1113. Reserved
- R12-1-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment
- R12-1-1115. Reserved
- R12-1-1116. Surveillance
- R12-1-1117. Reserved
- R12-1-1118. Industrial Radiographic Operations
- R12-1-1119. Reserved
- R12-1-1120. Radiation Safety Officer (RSO)
- R12-1-1121. Reserved
- R12-1-1122. Form of Records
- R12-1-1123. Reserved
- R12-1-1124. Reserved
- R12-1-1125. Reserved
- R12-1-1126. Posting
- R12-1-1127. Reserved
- R12-1-1128. Operating and Emergency Procedures
- R12-1-1129. Reserved
- R12-1-1130. Personnel Monitoring
- R12-1-1131. Reserved
- R12-1-1132. Supervision of a Radiographer's Assistant
- R12-1-1133. Reserved
- R12-1-1134. Radiation Surveys
- R12-1-1135. Reserved
- R12-1-1136. Permanent Radiographic Installations
- R12-1-1137. Reserved
- R12-1-1138. Location of Documents and Records
- R12-1-1139. Reserved
- R12-1-1140. Enclosed Radiography
- R12-1-1141. Reserved
- R12-1-1142. Baggage and Package Inspection Systems
- R12-1-1143. Reserved
- R12-1-1144. Reserved
- R12-1-1145. Reserved
- R12-1-1146. Training
- Appendix A. Standards for Organizations that Provide Radiography Certification

**ARTICLE 12. ADMINISTRATIVE PROVISIONS**

*Article 12, consisting of R12-1-1201 through R12-1-1203 and R12-1-1205, repealed effective January 2, 1996 (Supp. 96-1).*

## Section

- R12-1-1201. Timeliness
- R12-1-1202. Administrative Hearings
- R12-1-1203. Procedures for Rulemaking Public Hearings
- R12-1-1204. Initiation of Administrative Hearings
- R12-1-1205. Intervention in Administrative Hearings; Director as a Party
- R12-1-1206. Repealed
- R12-1-1207. Rehearing or Review
- R12-1-1208. Repealed
- R12-1-1209. Notice of Violation
- R12-1-1210. Response to Notice of Violation
- R12-1-1211. Initial Orders
- R12-1-1212. Request for Hearing in Response to an Initial Order
- R12-1-1213. Severity Levels of Violations
- R12-1-1214. Mitigating Factors
- R12-1-1215. License and Registration Divisions
- R12-1-1216. Civil Penalties
- R12-1-1217. Augmentation of Civil Penalties
- R12-1-1218. Payment of Civil Penalties
- R12-1-1219. Additional Sanctions-Show Cause
- R12-1-1220. Escalated Enforcement
- R12-1-1221. Reserved
- R12-1-1222. Enforcement Conferences
- R12-1-1223. Registration and Licensing Time-frames

## Radiation Regulatory Agency

Table A. Registration and Licensing Time-frames

**ARTICLE 13. LICENSE AND REGISTRATION FEES**

*Article 13, consisting of Sections R12-1-1301 through R12-1-1308, adopted effective November 5, 1993 (Supp. 93-4).*

*Article 13, consisting of Sections R12-1-1301 through R12-1-1303, repealed effective November 5, 1993 (Supp. 93-4).*

## Section

- R12-1-1301. Definition
- R12-1-1302. License and Registration Categories
- R12-1-1303. Fee for Initial License and Initial Registration
- R12-1-1304. Annual Fees for Licenses and Registrations
- R12-1-1305. Method of Payment
- R12-1-1306. Table of Fees
- R12-1-1307. Special License Fees
- R12-1-1308. Fee for Requested Inspections
- R12-1-1309. Abandonment of License or Registration Application

Table 1. Small Entity Fees

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION**

## Section

- R12-1-1401. Registration of Nonionizing Radiation Sources and Service Providers
- R12-1-1402. Definitions
- R12-1-1403. General Safety Provisions and Exemptions
- R12-1-1404. Radio Frequency Equipment
- R12-1-1405. Radio Frequency Radiation: Maximum Permissible Exposure
- R12-1-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting
- R12-1-1407. Microwave Ovens
- R12-1-1408. Reporting of Radio Frequency Radiation Incidents
- R12-1-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation
- R12-1-1410. Radio Frequency Compliance Measurements
- R12-1-1411. Repealed
- R12-1-1412. Tanning Operations
- R12-1-1413. Tanning Equipment Standards
- R12-1-1414. Tanning Equipment Operators
- R12-1-1415. Tanning Facility Warning Signs
- R12-1-1416. Reporting of Tanning Injuries
- R12-1-1417. Repealed
- R12-1-1418. High Intensity Mercury Vapor Discharge (HID) Lamps
- R12-1-1419. Reserved
- R12-1-1420. Reserved
- R12-1-1421. Laser Safety
- R12-1-1422. Laser Protective Devices
- R12-1-1423. Laser Prohibitions
- R12-1-1424. Repealed
- R12-1-1425. Laser Product Classification
- R12-1-1426. Laser and Collateral Radiation Exposure Limits
- R12-1-1427. Laser Caution Signs, Symbols, and Labels
- R12-1-1428. Repealed
- R12-1-1429. Posting of Laser Facilities
- R12-1-1430. Repealed
- R12-1-1431. Repealed
- R12-1-1432. Repealed
- R12-1-1433. Laser Use Areas that are Controlled
- R12-1-1434. Laser Safety Officer (LSO)
- R12-1-1435. Laser Protective Eyewear
- R12-1-1436. Reporting Laser Incidents

- R12-1-1437. Special Lasers
- R12-1-1438. Hair Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light
- R12-1-1438.01. Certification and Revocation of Laser Technician Certificate
- R12-1-1439. Laser and IPL Laser Technician and Laser Safety Training Programs
- R12-1-1440. Medical Lasers
- R12-1-1441. Laser Light Shows and Demonstrations
- R12-1-1442. Measurements and Calculations to Determine MPE Limits for Lasers
- R12-1-1443. Laser Compliance Measurement Instruments
- R12-1-1444. Laser Classification Measurements
- Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)
- Appendix B. Application Information
- Appendix C. Hair Removal and Other Cosmetic Laser or IPL Operator Training Program
- Appendix D. Laser Operator and Laser Safety Officer Training

**ARTICLE 15. TRANSPORTATION**

*Article 15 consisting of Sections R12-1-1501 through R12-1-1508, and Appendix A adopted effective December 20, 1985 (Supp. 85-6).*

## Section

- R12-1-1501. Requirement for License
- R12-1-1502. Definitions
- R12-1-1503. Transportation of Licensed Material
- R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials
- R12-1-1505. Storage of Radioactive Material in Transport
- R12-1-1506. Preparation of Radioactive Material for Transport
- R12-1-1507. Packaging Quality Assurance
- R12-1-1508. Advance Notification of Nuclear Waste Transportation
- R12-1-1509. General License: Plutonium-Beryllium Special Form Material
- R12-1-1510. Packaging
- R12-1-1511. Air Transportation of Plutonium
- R12-1-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste
- R12-1-1513. Opening Instructions
- R12-1-1514. Reserved
- R12-1-1515. Exemption for Low-level Radioactive Materials
- Appendix A. Repealed

**ARTICLE 16. RESERVED****ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES**

## Section

- R12-1-1701. Definitions
- R12-1-1702. Agreement with Well Owner or Operator
- R12-1-1703. Limits on Levels of Radiation
- R12-1-1704. Reserved
- R12-1-1705. Reserved
- R12-1-1706. Reserved
- R12-1-1707. Reserved
- R12-1-1708. Reserved
- R12-1-1709. Reserved
- R12-1-1710. Reserved
- R12-1-1711. Reserved
- R12-1-1712. Storage Precautions
- R12-1-1713. Transportation Precautions
- R12-1-1714. Radiation Survey Instruments
- R12-1-1715. Leak Testing of Sealed Sources

- R12-1-1716. Inventory
- R12-1-1717. Utilization Records
- R12-1-1718. Design and Performance Criteria for Sources
- R12-1-1719. Labeling
- R12-1-1720. Inspection, Maintenance, and Opening of a Source or Source Holder
- R12-1-1721. Training
- R12-1-1722. Operating and Emergency Procedures
- R12-1-1723. Personnel Monitoring
- R12-1-1724. Radioactive Contamination Control
- R12-1-1725. Uranium Sinkers Bars
- R12-1-1726. Energy Compensation Source
- R12-1-1727. Neutron Generator Source
- R12-1-1728. Use of a Sealed Source in a Well Without a Surface Casing
- R12-1-1729. Reserved
- R12-1-1730. Reserved
- R12-1-1731. Security
- R12-1-1732. Handling tools
- R12-1-1733. Subsurface Tracer Studies
- R12-1-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators
- R12-1-1735. Reserved
- R12-1-1736. Reserved
- R12-1-1737. Reserved
- R12-1-1738. Reserved
- R12-1-1739. Reserved
- R12-1-1740. Reserved
- R12-1-1741. Radiation Surveys
- R12-1-1742. Documents and Records Required at Field Stations
- R12-1-1743. Documents and Records Required at Temporary Job Sites
- R12-1-1744. Reserved
- R12-1-1745. Reserved
- R12-1-1746. Reserved
- R12-1-1747. Reserved
- R12-1-1748. Reserved
- R12-1-1749. Reserved
- R12-1-1750. Reserved
- R12-1-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources

## ARTICLE 1. GENERAL PROVISIONS

### R12-1-101. Scope and Incorporated Materials

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967 and incorporated by reference. This incorporated material contains no later editions or amendments, and together with all other incorporated materials in this Chapter, is available for inspection or copying at the Arizona Radiation Regulatory Agency, 4814 S. 40th St., Phoenix, AZ 85040.
- D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and <http://www.gpo-access.gov/cfr/>.

#### Historical Note

Former Rule Section A.1; Former Section R12-1-101 repealed, new Section R12-1-101 adopted effective June 30, 1977 (Supp. 77-3). Amended effective April 2, 1990

(Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

### R12-1-102. Definitions

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter, unless the context otherwise requires. Additional subject-specific definitions are used in other Articles.

“A<sub>1</sub>” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“A<sub>2</sub>” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator produced material” means any material made radioactive by irradiating it in a particle accelerator.

“Act” means A.R.S. Title 30, Chapter 4.

“Activity” means the rate of disintegration, transformation, or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

“Adult” means an individual 18 or more years of age.

“Agency,” or “ARRA” means the Arizona Radiation Regulatory Agency.

“Agreement State” means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). “Nonagreement State” means any other state.

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of aerosols, dusts, fumes, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:

In excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Article 4 of these rules; or

That an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“ALARA” means as low as is reasonably achievable, making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Analytical x-ray equipment” means equipment used for x-ray diffraction or x-ray-induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Annual” means done or performed yearly. For purposes of Chapter 1 any required activity done or performed within plus or minus two weeks of the annual due date is considered done or performed in a timely manner.

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of a licensee. “Background radiation” does not include sources of radiation regulated by the Agency.

“Becquerel” (Bq) means the International System (SI) unit for activity and is equal to 1 disintegration per second (dps or tps).

“Bioassay” means the determination of kinds, quantities, or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Brachytherapy” means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavity or interstitial application.

“Byproduct material” means:

Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition.

“Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar

quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

The strength of a source of radiation relative to a standard.

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“Certificate holder” means a person who has been issued a certificate of compliance or other package approval by the Agency or NRC.

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

“Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

“Civil penalty” means the monetary fine which may be imposed on licensees by the Agency, pursuant to A.R.S. § 30-687, for violations of the Act, this Chapter, or license conditions.

“Collective dose” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“Committed dose equivalent” (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ( $HE,50 = \sum w_T HT,50$ ).

“Curie” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7E + 10^{10}$  transformations per second (tps).

“Current license or registration” means a license or registration issued by the Agency and for which the licensee has paid the license or registration fee for the current year according to R12-1-1304.

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm<sup>2</sup>).

“Depleted uranium” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

“Dose limits” means the permissible upper bound of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“Dosimeter” (See “Individual monitoring device”)

“Effective dose equivalent” (HE) means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated ( $HE = \sum w_T HT$ ).

“Effluent release” means any disposal or release of radioactive material into the ambient atmosphere, soil, or any surface or subsurface body of water.

“Embryo/fetus” means the developing human organism from conception until the time of birth.

“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source during operation is precluded except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Enclosed radiography” means industrial radiography conducted by using cabinet radiography or shielded room radiography.

“Cabinet radiography” means industrial radiography conducted by using an x-ray machine in an enclosure not designed for human admittance and which is so shielded that every location on the exterior meets the conditions for an “unrestricted area.”

“Shielded room radiography” means industrial radiography conducted using an x-ray machine in an enclosure designed for human admittance and which is so shielded that every location of the exterior meets the conditions for an “unrestricted area.”

“Entrance or access point” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“Exhibit” for purposes of these rules, is equivalent in meaning to the word “Schedule” as found in previously issued rules, current license conditions, and regulation guide.

“Explosive material” means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

The quotient of dQ by dm where “dQ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “dm” are completely stopped in air. The special unit of exposure is the roentgen (R).

“Exposure rate” means the exposure per unit of time.

“External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

“Extremity” means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

“Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“Field radiography” means industrial radiography, utilizing a portable or mobile x-ray system, which is not conducted in a shielded enclosure.

“Field station” means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190 and 191, revised July 1, 2008, incorporated by reference, and available under R12-1-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

“Gray” (Gy) means the International System (SI) unit of absorbed dose and is equal to 1 joule per kilogram. One gray equals 100 rad.

“Hazardous waste” means those wastes designated as hazardous in A.R.S. § 49-921(5).

“Healing arts” means the practice of medicine, dentistry, osteopathy, podiatry, chiropractic, and veterinary medicine.

“Health care institution” means every place, institution, or building which provides facilities for medical services or other

health-related services, not including private clinics or offices which do not provide overnight patient care.

“High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

“Human use” means the internal or external administration of radiation or radioactive materials to human beings.

“Impound” means to abate a radiological hazard. Actions which may be taken by the Agency in impounding a source of radiation include seizing the source of radiation, controlling access to an area, and preventing a radiation machine from being utilized.

“Individual” means any human being.

“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

By determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in Article 4).

“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel dosimeter,” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personal (“lapel”) air sampling devices.

“Individual monitoring equipment” means one or more individual monitoring devices. For purposes of this Chapter, “personnel monitoring equipment” is an equivalent term.

“Industrial radiography” means the examination of the macroscopic structure of materials by non-destructive methods utilizing sources of ionizing radiation.

“Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

“Inspection” means an examination or observation by a representative of the Agency, including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the License or certificate of registration.

“Interlock” means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

“Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

“Irradiate” means to expose to radiation.

“Laser” (light amplification by the stimulated emission of radiation) means any device which can produce or amplify electromagnetic radiation with wave lengths in the range of 180 nanometers to 1 millimeter primarily by the process of controlled stimulated emission.

“Lens dose equivalent” (LDE) means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm<sup>2</sup>).

“License” means the grant of authority, issued pursuant to Articles 3 and 14 of this Chapter and A.R.S. §§ 30-671, 30-672, and 30-721 et seq., to acquire, possess, transfer, and use sources of radiation. The types of licenses issued by the Agency are described in R12-1-1302.

“Licensed material” means radioactive material received, possessed, used, transferred, or disposed of under a general or specific license issued by the Agency.

“Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic, podiatry, or naturopathy in this state.

“Licensee” means any person who is licensed by the Agency under this Chapter to acquire, possess, transfer, or use sources of radiation.

“Licensing State” means any state having regulations equivalent to this Chapter relating to, and an effective program for the regulation of, naturally occurring and accelerator-produced radioactive material (NARM).

“Limits” (See “Dose limits”)

“Local components” means those parts of an analytical x-ray system that are struck by x-rays, including radiation source housings, port and shutter assemblies, collimator, sample holders, cameras, goniometer, detectors and shielding but not including power supplies, transformers, amplifiers, readout devices, and control panels.

“Logging supervisor” means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

“Logging tool” means a device used subsurface to perform well logging.

“Lost or missing licensed or registered source of radiation” means licensed or registered source of radiation the location of which is unknown. Included are licensed radioactive material or a registered radiation source that has been shipped but has not reached its planned destination and whose location cannot be readily traced or ascertained in the transportation system.

“Low-level waste” means waste material which contains radioactive nuclides in concentrations or quantities which exceed applicable standards for unrestricted release but does not include:

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram (370 kilobecquerels per kilogram) of waste material;

The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10

CFR 71.4, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“Medical dose” means a radiation dose intentionally delivered to an individual for medical examination, diagnosis, or treatment.

“Member of the public” means any individual except when that individual is receiving an occupational dose.

“MeV” means Mega Electron Volt which equals 1 million volts (106 eV).

“Mineral logging” means any well logging performed in a borehole drilled for the purpose of exploration for minerals other than oil or gas.

“Minor” means an individual less than 18 years of age.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

“Multiplier” means a letter representing a number. The use of a multiplier is based on the code given below:

<i>Prefix</i>	<i>Multiplier Symbol</i>	<i>Value</i>
eka	E	$10^{18}$
peta	P	$10^{15}$
tera	T	$10^{12}$
giga	G	$10^9$
mega	M	$10^6$
kilo	k	$10^3$
milli	m	$10^{-3}$
micro	u	$10^{-6}$
nano	n	$10^{-9}$
pico	p	$10^{-12}$
femto	f	$10^{-15}$
atto	a	$10^{-18}$

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be confused with “NORM” which is defined as naturally occurring radioactive material.

“Normal operating procedures” means the entire set of instructions necessary to accomplish the intended use of the source of radiation. These procedures shall include, but are not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the licensee, and data recording procedures which are related to radiation safety.

“Natural radioactivity” means the radioactivity of naturally occurring radioactive substances.

“NRC” means Nuclear Regulatory Commission, the U.S. Nuclear Regulatory Commission, or its duly authorized representatives.

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised October 1, 2007, incorporated by reference, and available under R12-1-101; this incorporated material contains no future editions or amendments) of

source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R12-1-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” means an analytical x-ray system in which an individual could place some body part in the primary beam path during normal operation.

“Package” means the packaging together with its radioactive contents as presented for transport.

“Particle accelerator” (See “Accelerator”)

“Permanent radiographic installation” means a fixed, shielded installation or structure designed or intended for industrial radiography and in which industrial radiography is regularly performed.

“Personnel dosimeter” (See “Individual monitoring device”)

“Personnel monitoring equipment” (See “Individual monitoring device”)

“Personal supervision” means supervision in which the supervising individual is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the supervised individual and in such proximity that immediate assistance can be given if required.

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means an individual licensed pursuant to A.R.S. Title 32, Chapters 13 or 17.

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a Radiation Safety Officer.

“Primary beam” means radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radioactive source located in the radiation source housing.

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R12-1-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” means any liquid that ignites spontaneously in dry or moist air at or below  $130 \times F$  ( $54.4 \times C$ ).



“Pyrophoric solid” means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently that it creates a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“Qualified expert” means an individual certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or having equivalent qualifications that provide the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs; or an individual certified in Therapeutic Radiological Physics or X-ray and Radium Physics by the American Board of Radiology, or having equivalent qualifications that provide training and experience in the clinical applications of radiation physics to radiation therapy, to calibrate radiation therapy equipment. The detailed requirements for a particular qualified expert may be provided in the respective Articles of this Chapter. For clarification purposes, a qualified expert is not always an authorized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

“Quality Factor” (Q) means the modifying factor, listed in Tables I and II of this Article, that is used to derive dose equivalent from absorbed dose.

“Quarter” (See “Calendar quarter”)

“Rad” means the special unit of absorbed dose. One rad equals 100 ergs per gram, or 0.01 gray.

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

“Radiation area” means any area accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“Radiation dose” (See “Dose”)

“Radiation machine” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“Radiation Safety Officer” (RSO) means the individual and who for license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1) and 10 CFR 35.59, (revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); or is identified as a Radiation Safety Officer on a specific medical use license issued by the NRC or an Agreement State; or a medical use permit issued by a NRC master material licensee;

Or, who, for registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety

and compliance with the Act, this Chapter and any registration conditions.

“Radiation safety officer” (RSO) means the individual designated by the licensee or registrant who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter and any license, or registration conditions.

“Radioactive marker” means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

“Radioactive material” means any solid, liquid, or gas which emits radiation spontaneously.

“Radioactivity” means emission of electromagnetic energy or particles or both during the transformation of unstable atomic nuclei.

“Radiographer” means any individual who performs or personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of this Chapter and all conditions of the license or certificate of registration.

“Radiographer’s assistant” means any individual who, under the personal supervision of a radiographer, uses sources of radiation, radiographic exposure devices, related handling tools, or survey instruments in industrial radiography.

“Registrant” means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these rules and the Act.

“Registration” is the process by which a person becomes a registrant pursuant to Article 2 of this Chapter. With the exception of registration of persons who install or service radiation machines, the types of registrations issued by the Agency are described in R12-1-1302.

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, 171 through 180, revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

“Rem” means the special unit of dose equivalent (see “Dose equivalent”). The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem - 0.01 sievert).

“Research and Development” means exploration, experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and Development does not include the internal or external administration of radiation or radioactive material to human beings.

“Restricted area” means any area where the licensee or registrant controls access for purposes of protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

“Roentgen” (R) means the special unit of exposure and is equal to the quantity of x or gamma radiation which causes

ionization in air equal to 258 microcoulomb per kilogram (see “Exposure”).

“Safety system” means any device, program, or administrative control designed to ensure radiation safety.

“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both the NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for each source or device.

“Shallow dose equivalent” (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm<sup>2</sup>).

“Shielded position” means the location within a radiographic exposure device or storage container which, by manufacturer’s design, is the proper location for storage of the sealed source.

“Sievert” means the SI unit of dose equivalent (see “Dose equivalent”). The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“Site boundary” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“Source changer” means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

“Source holder” means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

“Source material” means:

Uranium or thorium, or any combination of uranium or thorium, in any physical or chemical form; or

Ores that contain by weight 1/20 of 1 percent (0.05 percent) or more of uranium, thorium, or any combination of uranium and thorium.

Source material does not include special nuclear material.

“Source material milling” means any activity that results in the production of byproduct material as defined by the second subsection under the definition of “Byproduct material.”

“Source of radiation” or “source” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71.75, revised January 1, 2008, incorporated by reference, available under R12-1-101. This incorporated material contains no future editions or amendments. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation constructed after June 30, 1985, shall meet requirements of this definition applicable at the time of its construction.

“Special nuclear material in quantities not sufficient to form a critical mass” means Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; Uranium-233 in quantities not exceeding 200 grams; Plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{XgmsU235}{350} + \frac{YgmsU233}{200} + \frac{ZgmsPu}{200} \leq 1$$

“Storage area” means any location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, storage container, sealed source, or other source of radiation when it is not in use.

“Storage container” means a device in which sealed sources are transported or stored.

“Subsurface tracer study” means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

“Survey” means an evaluation of the production, use, release, disposal, or presence of sources of radiation or any combination thereof under a specific set of conditions to determine actual or potential radiation hazards. Such evaluations include, but are not limited to, tests, physical examination and measurements of levels of radiation or concentration of radioactive material present.

“TEDE” (See “Total Effective Dose Equivalent”)

“Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“Temporary job site” means any location where sources of radiation are used other than the specified locations listed on a license document. Storage of sources of radiation at a temporary jobsite shall not exceed six months unless the Agency has granted an amendment authorizing storage at that jobsite.

“Test” means the process of verifying compliance with an applicable rule, order, or license condition.

“These rules” means all Articles of 12 A.A.C. 1.

“Total Effective Dose Equivalent” (TEDE) means total effective dose equivalent, the sum of the deep-dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

“Total Organ Dose Equivalent” (TODE) means the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose. Determination of TODE is described in R12-1-411.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

“Unrestricted area” means any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material. Any area used for residential quarters is an unrestricted area.

“U.S. Department of Energy” means the Department of Energy established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers, and components; and transferred to the U.S. Energy Research and Development Administration and to the administrator of that agency under sections 104(b), (c), and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy under Section 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose that exceeds 5 grays (500 rads) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

“Waste” (See “Low-level waste”)

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal and persons licensed to dispose of radioactive waste.

“Week” means seven consecutive days starting on Sunday.

“Well-bore” means a drilled hole in which wireline service operations and subsurface tracer studies are performed.

“Well-logging” means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well and adjacent formations.

“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Wireline” means an armored cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

“Wireline service operation” means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

“Worker” means any individual engaged in work under a license issued by the Agency and controlled by employment or contract with a licensee.

“WL” means working level, any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of  $1.3E + 5$  MeV of potential alpha particle energy. The short-lived radon daughters are – for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“WLM” means working level month, an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

“Workload” means the degree of use of an x-ray or gamma-ray source per unit time.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

### Historical Note

Former Rule Section A.2. Former Section R12-1-102 repealed, new Section R12-1-102 adopted effective June 30, 1977 (Supp. 77-3). Amended effective November 19, 1982 (Supp. 82-6). Amended effective February 25, 1985 (Supp. 85-1). Amended by adding a new paragraph (31), subparagraph (w) and renumbering the former paragraph (31), subparagraphs (w) through (z) accordingly effective November 28, 1986 (Supp. 86-6). Amended by adding a new paragraph (34) and renumbering the former paragraphs (34) through (68) accordingly effective June 26, 1987 (Supp. 87-2). Amended effective April 2, 1990 (Supp. 90-2). Amended effective November 5, 1993 (Supp. 93-4). Amended effective February 18, 1994 (Supp. 94-1). Amended effective August 10, 1994 (Supp. 94-3). Amended effective January 2, 1996 (Supp. 96-1). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

### R12-1-103. Exemptions

- A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, revised October 1, 2007, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, revised July 1, 2007, incorporated by reference, and available under R12-1-101, and who if need be, store radioactive material, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The incorporated materials above contain no future editions or amendments.
- B. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state are exempt from this Chapter to the extent that such con-

tractor or subcontractor under the contract receives, possesses, uses, transfers, or acquires sources of radiation:

1. Prime contractors performing work for the Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;
  2. Prime contractors of the Department of Energy performing research or development, manufacture, storage, testing or transportation of nuclear weapons or components thereof;
  3. Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and
  4. Any other prime contractor or subcontractor of the Department of Energy or of the Nuclear Regulatory Commission when the state and the Nuclear Regulatory Commission jointly determine:
    - a. That the exemption of the prime contractor or subcontractor is authorized by law; and
    - b. That under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.
- C.** Any licensee who delivers to a carrier for transport any package which contains radioactive material having a specific activity of 74 kBq/kg (2 nanocuries per gram) or less, is exempt from the provisions of this Chapter with respect to that package.

#### Historical Note

Former Rule Section A.3; Former Section R12-1-103 repealed, new Section R12-1-103 adopted effective June 30, 1977 (Supp. 77-3). Amended effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-104. Prohibited Uses

- A.** A person shall not use the following fluoroscopic devices:
1. Hand-held fluoroscopic screens,
  2. Shoe-fitting fluoroscopic devices.
- B.** Except as specifically authorized by law, a person shall not use sources of ionizing radiation for the purpose of screening an individual or inspecting an individual for:
1. Concealed weapons,
  2. Hazardous materials,
  3. Stolen property, or
  4. Contraband.
- C.** Unless there is a medical or dental indication for the exposure and the exposure is prescribed by a licensed practitioner, a person shall not deliberately expose an individual to the useful beam from:
1. An ionizing radiation machine; or
  2. A non-ionizing radiation source, having a radiation beam known to be harmful to human tissue.

#### Historical Note

Former Rule Section A.4; Former Section R12-1-104 repealed, new Section R12-1-104 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-104 repealed, new Section R12-1-104 renumbered from R12-1-112 and amended effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3).

Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

#### R12-1-105. Quality Factors for Converting Absorbed Dose to Dose Equivalent

- A.** As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I  
QUALITY FACTORS AND ABSORBED DOSE  
EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent <sup>a</sup>
X, gamma, or beta radiation and high-speed electrons		1
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

<sup>a</sup>The absorbed dose in gray is equal to 1 Sv or the absorbed dose in rad is equal to 1 rem.

- B.** If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II  
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT  
DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

	Neutron Energy (meV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> r <sub>em</sub> <sup>-1</sup> )	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> Sv <sup>-1</sup> )
(thermal)	2.5E-8	2	980E+6	980E+8
	1E-7	2	980E+6	980E+8
	1E-6	2	810E+6	810E+8
	1E-5	2	810E+6	810E+8
	1E-4	2	840E+6	840E+8
	1E-3	2	980E+6	980E+8
	1E-2	2.5	1010E+6	1010E+8

## Radiation Regulatory Agency

1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8
2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

<sup>a</sup> Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

<sup>b</sup> Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

**Historical Note**

Former Rule Section A.5; Former Section R12-1-105 repealed, new Section R12-1-105 adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2). New Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

**R12-1-106. Units of Activity**

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time. The definitions for these units are located in R12-1-102.

**Historical Note**

Former Rule Section A.6; Former Section R12-1-1-6 repealed, new Section R12-1-106 adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2). New Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

**R12-1-107. Misconduct**

**A.** A licensee, registrant, applicant for a license or certificate of registration, or employee of a licensee, registrant, or applicant; or any contractor (including a supplier or consultant), subcontractor, or employee of a contractor or subcontractor of any licensee or certificate of registration holder who provides to any licensee, registrant, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's activities in this Chapter, shall not:

1. Knowingly engage in conduct that violates or will result in a violation by a licensee, registrant, or applicant, of any statute, rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the Agency; or
2. Knowingly submit to the Agency, or a licensee, registrant, or applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that is incomplete or inaccurate.

**B.** The Board shall impose the applicable civil penalty listed in R12-1-1216 on a person who violates subsection (A)(1) or (A)(2). For this purpose the person is classified as a Division II licensee and the violation is classified as a Severity II violation.

**C.** For the purposes of this Section, "misconduct" means conduct prohibited under subsection (A).

**D.** A person who is not a licensee, registrant, or applicant and knowingly violates a rule for the safe use of radiation sources in 12 A.A.C.1 is subject to the enforcement actions in 12 A.A.C. 1, Article 12.

**Historical Note**

Former Rule Section A.7; Former Section R12-1-107 repealed, new Section R12-1-107 adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2). New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-108. Repealed****Historical Note**

Former Rule Section A.8; Former Section R12-1-108 repealed, new Section R12-1-108 adopted effective June 30, 1977 (Supp. 77-3). Change of address (Supp. 85-6). Section repealed effective April 2, 1990 (Supp. 90-2).

**R12-1-109. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2).

**R12-1-110. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2).

**R12-1-111. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed effective April 2, 1990 (Supp. 90-2).

**R12-1-112. Renumbered****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-112 renumbered to R12-1-104 effective April 2, 1990 (Supp. 90-2).

**Appendix A. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective August 10, 1994 (Supp. 94-3).

**Appendix B. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective August 10, 1994 (Supp. 94-3).

## **ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

**R12-1-201. Exemptions**

**A.** Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an

area of 10 centimeters squared (1.55 inches squared) does not exceed 5 microsieverts (0.5 milliroentgen) per hour at 5 centimeters (2.0 inches).

- B. The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- C. Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- D. Radiation machines rendered incapable of producing radiation are exempt from the requirements of this Article.

#### Historical Note

Former Rule Section B.3. Former Section R12-1-203 repealed, new Section R12-1-203 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-201 repealed, former Section R12-1-203 renumbered as R12-1-201 and amended effective November 22, 1988 (Supp. 88-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-202. Application for Registration of Ionizing Radiation Producing Machines

- A. A person shall not use a radiation machine except as authorized in this Article.
- B. A person possessing a nonexempt radiation machine shall apply for registration of the machine with the Agency within 30 days after its installation. The person applying for registration of a radiation-producing machine shall use the application forms provided by the Agency. The applicant shall provide the information identified in Appendix A of this Article.
- C. In addition to the application form or forms, the applicant shall remit the appropriate registration or licensing fee in R12-1-1306 and provide other information required by R12-1-208.
- D. Each applicant that applies for registration of a stationary x-ray system, with the exception of applicants from bone densitometry, cabinet radiography, podiatry, dental, bone mineral analyzer and mammography facilities, shall provide a scale drawing of the room in which the x-ray system is located, or provide measurements from the radiation source to the surrounding barrier surfaces. The drawing shall denote the type of materials and the thickness (or lead equivalence) of each barrier of the room (walls, ceilings, floors, doors, windows). The drawing shall also denote the type and frequency of occupancy in adjacent areas, including those above and below the x-ray room of concern (e.g., hallways, offices, parking lots, and lavatories). Estimates of workload shall also be provided with the drawing.
- E. An applicant proposing to use a particle accelerator for medical purposes shall not use the particle accelerator until the Agency inspection required in R12-1-914 has been completed.

#### Historical Note

Former Rule Section B.4. Former Section R12-1-204 repealed, new Section R12-1-204 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-202 repealed, former Section R12-1-204 renumbered as R12-1-202 and amended effective November 22, 1988 (Supp. 88-4). Amended effective January 2, 1996 (Supp. 96-1). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective June 11, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective

November 14, 2003 (Supp. 03-3).

#### R12-1-203. Application for Registration of Servicing and Installation

- A. Each person who is engaged in the business of installing or offering to install radiation machines shall apply for registration. For purposes of this Chapter, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.
- B. The applicant shall complete the application for registration on forms that request information required by A.R.S. § 30-672.01, provided by the Agency.

#### Historical Note

Former Rule Section B.5. Former Section R12-1-205 repealed, new Section R12-1-205 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-205 renumbered as R12-1-203 and amended effective November 22, 1988 (Supp. 88-4). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-204. Issuance of Notice of Registration

- A. Upon determining that the application meets the requirements of the Act and this Article, the Agency shall issue a Notice of Registration.
- B. All radiation machines located at the same facility may be registered using one Notice of Registration.

#### Historical Note

Former Rule Section B.6. Former Section R12-1-206 repealed, new Section R12-1-206 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-206 renumbered as R12-1-204 and amended effective November 22, 1988 (Supp. 88-4). Amended effective January 2, 1996 (Supp. 96-1). Amended effective June 13, 1997 (Supp. 97-2).

#### R12-1-205. Expiration of Notice of Registration or Certification

- A. Except as provided in subsection (B), a Notice of Registration, issued according to R12-1-204, or a certificate issued according to R12-1-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- B. If an application for renewal is filed by the registrant or certificate holder not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire until a final determination is made by the Agency on the renewal application.

#### Historical Note

Former Rule Section B.7. Former Section R12-1-207 repealed, new Section R12-1-207 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-207 renumbered as R12-1-205 and amended effective November 22, 1988 (Supp. 88-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-206. Assembly, Installation, Removal from Service, and Transfer

- A. A person who assembles, or installs ionizing radiation machines in this state shall notify the Agency in writing within 15 days of:
  1. The name and address of the person possessing the machine that was assembled or installed;

2. The manufacturer, model, and serial number of each radiation machine with the tube housing model number and serial number, maximum kVp, and maximum mA, assembled or installed; and
  3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B.** Any person who possesses a radiation machine registered by the Agency shall notify the Agency within 15 days of the machine being taken out of service. The written notification shall contain the name and address of the person receiving the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.
- C.** In the case of diagnostic x-ray systems that contain certified components, an assembler shall, within 15 days following completion of the assembly, submit to the Agency a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), revised April 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A).
- D.** A person shall not make, sell, lease, transfer, lend, assemble, service, or install radiation machines or the supplies used in connection with radiation machines unless the supplies and equipment when properly placed in operation and used, meet the requirements of these rules.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-209 renumbered as Section R12-1-206 and amended effective November 22, 1988 (Supp. 88-4). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-207. Reciprocal Recognition of Out-of-state Radiation Machines

- A.** If any radiation machine is to be brought into the state for temporary use, the person proposing to bring the radiation machine into the state shall provide written notice to the Agency at least three working days before the radiation machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may upon application to the Agency, obtain permission to proceed sooner.
- B.** In addition, the owner of the radiation machine and the person possessing the machine while in the state shall:
1. Comply with all applicable rules of the Agency;
  2. Upon request, supply the Agency with a copy of the machine's registration and other information regarding the safe operation of the machine while it is in the state; and
  3. Upon request, supply the Agency with the work authorization from the Agency, machine registration, operating and emergency procedures, utilization log, survey instrument and associated calibration record, and training records for all users.
- C.** A radiation machine shall not be operated within the state on a temporary basis in excess of 180 calendar days per year.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-210 renumbered as Section R12-1-207 and amended effective November 22, 1988 (Supp. 88-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-208. Certification of Mammography Facilities

An applicant seeking certification of a facility according to A.R.S. § 30-672(J) shall:

1. Provide evidence with the application that a quality assurance program has been established and is in use for the items listed in Appendix B of 12 A.A.C. 1, Article 6,
2. Provide evidence with the application that physicians reading mammographic images have the training and experience required in A.R.S. § 32-2842(A); and,
3. Provide evidence with the application that physicians reading mammographic images have met the minimum criteria established by their respective licensing boards, as required in A.R.S. § 32-2842(C).

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective November 22, 1988 (Supp. 88-4). New Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-209. Notifications

- A.** A registrant shall notify the Agency within 30 days of any change to the information contained in the notice of registration or a certificate issued according to R12-1-208.
- B.** A person who possesses a radiation machine registered by the Agency shall notify the Agency within 15 days if the machine is discarded or transferred to another person. In the notice, the person shall provide the name and address of the person who receives the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### Appendix A. Application Information

An application shall contain the following information as required in R12-1-202(B), before a registration will be issued. The Agency shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that only correct information is provided on the application.

Name and mailing address of applicant	Use location
Person responsible for radiation safety program	Telephone number
Type of facility	Facility subtype
Legal structure and ownership	Signature of certifying agent
Radiation machine information	Equipment identifiers
Shielding information	Scale drawing, if applicable

Equipment operator instructions and restrictions	Physicist name and training, if applicable
Classification of professional in charge	
Record of calibration for therapy units	Type of request: amendment, new, or renewal
Protection survey results, if applicable	
Type of industrial radiography program, if applicable	
Radiation Safety Officer name, if applicable	Contact person
Other registration requirements listed in Articles 2, 6, 8, 9, and 11	Appropriate fee listed in Article 13 schedule

**Historical Note**

Appendix repealed; new Appendix made by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**ARRA-4. Repealed****Historical Note**

Appendix A, Form ARRA-4 adopted effective November 22, 1988 (Supp. 88-4). Appendix A, Form ARRA-4 repealed, new Form ARRA-4 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4X. Repealed****Historical Note**

Form ARRA-4X adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4XT. Repealed****Historical Note**

Form ARRA-4XT adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4PAT. Repealed****Historical Note**

Form ARRA-4PAT adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4IG. Repealed****Historical Note**

Form ARRA-4IG adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

(Supp. 01-2).

**ARRA-4IR. Repealed****Historical Note**

Form ARRA-4IR adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4PAR. Repealed****Historical Note**

Form ARRA-PAR adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-4PA. Repealed****Historical Note**

Form ARRA-4PA adopted effective April 17, 1996 (Supp. 96-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**ARRA-13. Repealed****Historical Note**

Form ARRA-13 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1004. Repealed****Historical Note**

Form ARRA-1004 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1005. Repealed****Historical Note**

Form ARRA-1005 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1030. Repealed****Historical Note**

Form ARRA-1030 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1050. Repealed****Historical Note**

Form ARRA-1050 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1070. Repealed****Historical Note**

Form ARRA-1070 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**ARRA-1090. Repealed****Historical Note**

Form 1090 adopted effective April 17, 1996 (Supp. 96-2). Repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).



# ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

## R12-1-301. Ownership, Control, or Transfer of Radioactive Material

- A. In addition to the requirements of this Article, all licensees are subject to the requirements of 12 A.A.C. 1, Article 1, Article 4, and Article 10. Licensees engaged in industrial radiographic operations are subject to the requirements of 12 A.A.C. 1, Article 5; licensees using radioactive material in the practice of medicine are subject to the requirements of 12 A.A.C. 1, Article 7; licensees transporting radioactive material are subject to the requirements contained in 12 A.A.C. 1, Article 15; and licensees using radioactive material in well logging operations are subject to the requirements in 12 A.A.C. 1, Article 17.
- B. Notwithstanding any other provisions of this Article, any person may own radioactive material, provided that the ownership does not include the actual possession, custody, use, or physical transfer of radioactive material or the manufacture or production of any article that contains radioactive material without the applicable certification, license, or registration.
- C. A manufacturer, processor, or producer of any equipment, device, commodity, or other product that contains source material or radioactive material whose subsequent possession, use, transfer, or disposal by all other persons is exempt from regulatory requirements may only obtain authority to transfer possession or control of the material from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

### Historical Note

Former Rule Section C.1. Former Section R12-1-301 repealed, new Section R12-1-301 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-301 renumbered to R12-1-322, new Section R12-1-301 adopted effective February 18, 1994 (Supp. 94-1). Former Section R12-1-301 repealed; new Section R12-1-301 renumbered from R12-1-302 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

## R12-1-302. Source Material; Exemptions

- A. Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B. Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C. Any person is exempt from this Article if the person receives, possesses, uses, or transfers:
  1. Any quantities of thorium contained in:
    - a. Incandescent gas mantles;
    - b. Vacuum tubes;
    - c. Welding rods;
    - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
    - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
    - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight

- thorium, uranium, or any combination of thorium and uranium; or
- g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
2. Source material contained in the following products:
  - a. Glazed ceramic tableware, provided that the glaze contains not more than 20 percent source material by weight;
  - b. Glassware, glass enamel and glass enamel frit containing not more than 10 percent source material by weight, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass, glass enamel or ceramic used in construction; or
  - c. Piezoelectric ceramic containing not more than 2 percent source material by weight;
3. Photographic film, negatives, and prints containing uranium or thorium;
4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
  - a. The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee according to 10 CFR 40;
  - b. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
  - c. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and
  - d. The exemption contained in this item does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
  - e. The requirements specified in subsections (C)(5)(b) and (c) do not apply to counterweights manufactured prior to December 31, 1969; provided, that these counterweights are impressed with the legend, "CAUTION – RADIOACTIVE MATERIAL – URANIUM."
6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
  - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION – RADIOACTIVE SHIELDING – URANIUM," and
  - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm).
7. Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent of thorium by weight, and that the exemption contained in this item does not authorize either:
  - a. The shaping, grinding, or polishing of a thoriated lens or manufacturing processes other than the

- assembly of a thoriated lens into optical systems and devices without any alteration of the lens; or
- b. The receipt, possession, use, or transfer of thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
- 8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
- 9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
  - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
  - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

- D. The exemptions in subsection (C) do not authorize the manufacture of any of the products described.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Amended subsection (C) effective November 22, 1988 (Supp. 88-4). Former Section R12-1-302 renumbered to R12-1-303, new Section R12-1-302 renumbered from R12-1-301 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-302 renumbered to R12-1-301; new Section R12-1-302 renumbered from R12-1-303 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-303. Radioactive Material Other Than Source Material; Exemptions

##### A. Exempt concentrations

1. Except as provided in subsection (A)(3) and (A)(4), any person is exempt from this Article if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Exhibit A.
2. This Section shall not be deemed to authorize the import of byproduct material or products containing byproduct material.
3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license issued under R12-1-311(A) or the requirements of this Article to the extent that this person transfers byproduct material contained in a product or material in concentrations not in excess of those specified in Exhibit A of this Article and introduced into the product or material by a licensee holding a specific license issued by the Commission expressly authorizing such introduction. This exemption does not apply to the transfer of byproduct material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
4. A person shall not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (A)(1) or equivalent Regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State, except in accordance with a license issued under 10 CFR 32.11.

##### B. Exempt items

1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products, a person is exempt

from this Chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:

- a. Timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:
  - i. 925 megabecquerels (25 millicuries) of tritium per timepiece,
  - ii. 185 megabecquerels (5 millicuries) of tritium per hand,
  - iii. 555 megabecquerels (15 millicuries) of tritium per dial (bezels are considered part of the dial),
  - iv. 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece,
  - v. 740 kBq (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand,
  - vi. 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 megabecquerels (120 microcuries) of promethium-147 per other timepiece dial (bezels are considered part of the dial),
  - vii. The levels of radiation from hands and dials containing promethium-147 shall not exceed, when measured through 50 milligrams per square centimeter of absorber:
    - (1) For wrist watches, 1.0  $\mu$ Gy (0.1 millirad) per hour at 10 centimeters from any surface of the watch;
    - (2) For pocket watches, (0.1 millirad) per hour at 1 centimeter from any surface;
    - (3) For any other timepiece, 2.0  $\mu$ Gy (0.2 millirad) per hour at 10 centimeters from any surface;
  - viii. 37 kBq (1 microcurie) of radium-226 in time pieces manufactured prior to October 1, 1978;
- b. Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or not more than 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007;
- c. Marine compasses containing not more than 27.75 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007;
- d. Electron tubes: Provided that each tube does not contain more than one of the following specified quantities of radioactive material:
  - i. 5.55 GBq (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;
  - ii. 37 kBq (1 microcurie) of cobalt 60;
  - iii. 185 kBq (5 microcuries) of nickel 63;
  - iv. 1.11 megabecquerels (30 microcuries) of krypton 85;
  - v. 185 kBq (5 microcuries) of cesium 137;
  - vi. 1.11 megabecquerels (30 microcuries) of promethium-147;

- vii. And provided further, that the level of radiation due to radioactive material contained in each electron tube does not exceed 10  $\mu$ Gy (1 millirad) per hour) at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. The term "electron tubes" includes spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical current;
- e. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material provided that:
  - i. Each source contains no more than one exempt quantity set forth in Exhibit B of this Article; and
  - ii. Each instrument contains no more than 10 exempt quantities. For the purposes of this subsection, an instrument's source or sources may contain either one type or different types of radionuclide and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Exhibit B of this Article, provided the sum of the fractions do not exceed unity;
  - iii. For the purposes of subsection (B)(1)(h) only, 185 kBq (50 nanocurie) of americium-241 is considered an exempt quantity under Exhibit B of this Article;
- f. Ionization chamber smoke detectors containing not more than 1 microcurie ([micro]Ci) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.
- 2. Self-luminous products
  - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce self-luminous products containing tritium, krypton-85, or promethium-147, a person is exempt from this Chapter if the person receives, possesses, uses, owns, transfers or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, initially transferred for sale or distribution, or transferred under a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.22, and the license authorizes the transfer of the products to persons who are exempt from regulatory requirements. This exemption does not apply to tritium, krypton-85, or promethium-147 used in products for frivolous purposes or in toys or adornments.
  - b. A person is exempt from this Chapter if the person receives, possesses, uses, or transfers articles containing less than 3.7 kBq (100 nanocuries) of radium-226, manufactured prior to October 1, 1978.
- 3. Gas and aerosol detectors containing radioactive material
  - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce gas and aerosol detectors containing radioactive material, a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall be manufactured, imported, or transferred according to a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.26, or equivalent regulations of an Agreement or Licensing State, and the license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.
  - b. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State are exempt under subsection (B)(4)(a), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and that the detectors meet the requirements of the regulations of the U.S. Nuclear Regulatory Commission.
- C. Exempt quantities
  - 1. Except as provided in subsections (C)(2), (3), and (7), a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Exhibit B of this Article.
  - 2. This subsection does not authorize the production, packaging, or repackaging or transfer of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
  - 3. Except as specified in this subsection, a person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Exhibit B of this Article, knowing or having reason to believe the described quantities of radioactive material will be transferred to persons exempt under subsection (C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State. A person may transfer radioactive material for commercial distribution under a specific license issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.18 which license states that the radioactive material may be transferred by the licensee to persons exempt under this subsection or the equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State.
  - 4. Sources containing exempt quantities of radioactive material shall not be bundled or placed in close proximity for the purpose of using the radiation from the combined sources in place of a single source, containing a licensable quantity of radioactive material.
  - 5. Possession and use of bundled or combined sources containing exempt quantities of radioactive material in unregistered devices by persons exempt from licensing is prohibited.
  - 6. Any person, who possesses byproduct material received or acquired before September 25, 1971, under the general license issued under R12-1-311(A) of this Article or similar general license of an Agreement State or the NRC, is exempt from the requirements for a license issued under R12-1-311(A) of this Article to the extent that this person possesses, uses, transfers, or owns byproduct material.
  - 7. No person may, for purposes of producing an increased radiation level, combine quantities of byproduct material covered by the exemption described in (C)(6) so that the aggregate quantity exceeds the limits set forth in Exhibit

B, except for byproduct material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this section.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-303 renumbered to R12-1-304, new Section R12-1-303 renumbered from R12-1-302 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-303 renumbered to R12-1-302; new Section R12-1-303 renumbered from R12-1-304 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

#### R12-1-304. License Types

Licenses for radioactive materials are of two types: general and specific.

1. A general license is provided by rule, grants authority to a person for certain activities involving radioactive material, and is effective without the filing of an application with the Agency or the issuance of a licensing document to a particular person. However, registration with the Agency may be required by the particular general license.
2. The Agency issues a specific license to a named person who has filed an application for a license under the applicable provision of this Chapter. A specific licensee is subject to all of the applicable rules in this Chapter and any limitation contained in the license document.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-304 renumbered to R12-1-305, new Section R12-1-304 renumbered from R12-1-303 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-304 renumbered to R12-1-303; new Section R12-1-304 renumbered from R12-1-305 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-305. General Licenses – Source Material

- A. This subsection grants a general license that authorizes commercial and industrial firms; research, educational, and medical institutions; and state and local government agencies to use, and transfer not more than 6.8 kg (15 pounds) of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized under this subsection shall not receive more than 68.2 kg (150 pounds) of source material in one calendar year.
- B. A person who receives, possesses, uses, or transfers source material under a general license granted under subsection (A) is exempt from the provisions of 12 A.A.C. 1, Article 4 and Article 10, provided the receipt, possession, use, or transfer is within the terms of the general license. This exemption does not apply to any person who is also in possession of source material under a specific license issued under this Article.
- C. This subsection grants a general license that authorizes a person to receive acquire, possess, use, or transfer depleted uranium contained in industrial products and devices provided:
  1. The depleted uranium is contained in the industrial product or device for the purpose of providing a concentrated mass in a small volume of the product or device;

2. The industrial products or devices have been manufactured or initially transferred in accordance with a specific license governed by R12-1-311(M), or a specific license issued by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons generally licensed by the U.S. Nuclear Regulatory Commission or an Agreement State;
3. The person files an ARRA 23 “Registration Certificate -- Use of Depleted Uranium Under General License” with the Agency. The person shall provide the information requested on the certificate and listed in Exhibit E. The person shall submit the information within 30 days after first receipt or acquisition of the depleted uranium, returning the completed registration certificate to the Agency. The person shall report in writing to the Agency any change in information originally submitted to the Agency on ARRA 23. The person shall submit the change report within 30 days after the effective date of the described change.

- D. A person who receives, acquires, possesses, or uses depleted uranium according to the general license provided under subsection (C) shall:
  1. Not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
  2. Not abandon the depleted uranium;
  3. Transfer the depleted uranium as prescribed in R12-1-318. If the transferee receives the depleted uranium under a general license established by subsection (C), the transferor shall furnish the transferee with a copy of this Section and a copy of the registration certificate. If the transferee receives the depleted uranium under a general license governed by a regulation of the U.S. Nuclear Regulatory Commission or an Agreement State that is equivalent to subsection (C), the transferor shall furnish the transferee a copy of the equivalent rule and a copy of the registration certificate, accompanied by a letter explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially similar to those in this Section;
  4. Within 30 days of any transfer, report in writing to the Agency the name and address of the person receiving the depleted uranium; and
  5. Not export depleted uranium except under a license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 110.
- E. A person who receives, acquires, possesses, uses, or transfers depleted uranium in accordance with a general license granted under subsection (C) is exempt from the requirements of 12 A.A.C. 1, Articles 4 and 10 with respect to the depleted uranium covered by that general license.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-305 renumbered to R12-1-306, new Section R12-1-305 renumbered from R12-1-304 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-305 renumbered to R12-1-304; new Section R12-1-305 renumbered from R12-1-306 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by

final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

**R12-1-306. General License – Radioactive Material Other Than Source Material**

- A.** This subsection grants a general license that authorizes a commercial or industrial firm, to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment manufactured, tested, and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission under 10 CFR 31.3. The devices regulated by this subsection include:
1. Devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material, consisting of a total of not more than 18.5 MBq (500 microcuries) of polonium-210 per device; or
  2. Devices designed for ionization of air that contain, as a sealed source or sources, radioactive material, consisting of a total of not more than 18.5 MBq (500 microcuries) of polonium-210 per device or 1.85 GBq (50 millicuries) of hydrogen-3 (tritium) per device.
- B.** Certain detecting, measuring, gauging or controlling devices.
1. This subsection grants a general license that authorizes a commercial or industrial firm; a research, educational or medical institution; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material according to the provisions of 10 CFR 31.5(b), (c), and (d), (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. The incorporated material contains no future editions or amendments.); contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.
  2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection (B)(4)(k).
  3. A general license in subsection (B)(1) applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the requirements contained in:
    - a. A specific license issued under R12-1-311(A), or
    - b. An equivalent specific license issued by the NRC or another Agreement State.
  4. A person who acquires, receives, possesses, uses, or transfers radioactive material in a device licensed under subsection (B)(1), shall:
    - a. Ensure that all labels and safety statements affixed to a device at the time of receipt are maintained and not removed, and comply with all instructions and precautions on the labels.
    - b. Ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as specified on the label.
      - i. A general licensee need not test a device that contains krypton for leakage of radioactive material; and
      - ii. A general licensee need not test a device for leakage of radioactive material if the device contains only tritium, not more than 3.7 MBq (100 microcuries) of other beta or gamma emitting material, or 370 kBq (10 microcuries) of alpha emitting material, or the device is held in storage, in the original shipping container, before initial installation.
- c.** Ensure that the tests required by subsection (B)(4)(b) and other testing, installation, servicing, and removal from installation involving the radioactive material or its shielding or containment, are performed:
- i. In accordance with the device label instructions, or
  - ii. By a person holding a specific license under R12-1-311(A) or in accordance with the provisions of a specific license issued by the NRC or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
- d.** Maintain records of compliance with the requirements in subsections (B)(4)(b) and (c) that show the results of tests; the dates that required activities were performed, and the names of persons performing required activities involving radioactive material from the installation and its shielding or containment. The records shall be maintained for three years from the date of the recorded event or until transfer or disposal of the device.
- e.** Immediately suspend operation of a device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material.
- i. A general licensee shall not operate the device until it has been repaired by the manufacturer or another person holding a specific license to repair this type of device that was issued by the Agency under R12-1-311(A), the NRC, or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
  - ii. If necessary the general licensee shall dispose of the device and any radioactive material from the device by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Agency.
  - iii. Within 30 days of an event governed by subsection (B)(4)(e) the general licensee shall furnish a report that contains a brief description of the event and the remedial action taken and, in the case of detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the general licensee's facility or the surrounding area, if applicable, a plan for ensuring that the general licensee's facility and surrounding area, if applicable, are acceptable for unrestricted use. The radiological criteria for unrestricted use in R12-1-452 may be used to prepare the plan, as determined by the Agency, on a case-by-case basis.
- f.** Not abandon a device that contains radioactive material.
- g.** Not export a device that contains radioactive material except in accordance with 10 CFR 110, revised

- January 1, 2010, incorporated by reference, and available under R12-1-101. The incorporated material contains no future editions or amendments.
- h. Transfer or dispose of a device that contains radioactive material only by export as authorized in subsection (B)(4)(g), transfer to another general licensee as authorized in subsection (B)(4)(k) or a person who is authorized to receive the device by a specific license issued by the Agency, the NRC, or an Agreement State, or collection as waste if authorized by equivalent regulations of an Agreement State, or the NRC, or as otherwise approved under subsection (B)(4)(j).
  - i. Within 30 days after the transfer or export of a device to a specific licensee, furnish a report to the Agency. The report shall:
    - i. Identify the device by manufacturer's (or initial transferor's) name, model number, and serial number;
    - ii. Provide the name, address, and license number of the person receiving the device (license number not applicable if exported); and
    - iii. Provide the date of transfer or export.
  - j. Obtain written Agency approval before transferring a device to any other specific licensee that is not authorized in accordance with subsection (B)(4)(h).
  - k. Transfer a device to another general licensee only:
    - i. If the device remains in use at a particular location. The transferor shall provide the transferee with a copy of this Section, a copy of R12-1-443, R12-1-445, and R12-1-448 and any safety documents identified on the device label. Within 30 days of the transfer, the transferor shall report to the Agency the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and telephone number of the responsible individual appointed by the transferee in accordance with subsection (B)(4)(n); or
    - ii. If the device is held in storage in the original shipping container at its intended location of use before initial use by a general licensee, and by a person that is not a party to the transaction.
  - l. Comply with the provisions of R12-1-443, R12-1-444, R12-1-445, R12-1-447, and R12-1-448 for reporting and notification of radiation incidents, theft or loss of licensed material, and is exempt from the other requirements of 12 A.A.C. 1, Articles 4 and 10.
  - m. Respond to written requests from the Agency to provide information relating to the general license within 30 days from the date on the request, or a longer time period specified in the request. If the general licensee cannot provide the requested information within the specified time period, the general licensee shall request a longer period to supply the information before expiration of the time period, providing the Agency with a written justification for the request.
  - n. Appoint an individual responsible for knowledge of applicable laws and possessing the authority to take actions required to comply with applicable radiation safety laws. The general licensee, through this individual, shall ensure the day-to-day compliance with applicable radiation safety laws. This provision does not relieve the general licensee of responsibility.
  - o. Register, in accordance with subsections (B)(4)(p) and (q), any device that contains at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicuries) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under subsection (B)(4)(q)(iv), represents a separate general licensee and requires a separate registration and fee.
  - p. Register each device annually with the Agency and pay the fee required by R12-1-1306, Category D4, if in possession of a device that meets the criteria in subsection (B)(4)(o). The general licensee shall register by verifying, correcting, and adding to the information provided in a request for registration received from the Agency. The registration information shall be submitted to the Agency within 30 days from the date on the request for registration. In addition, a general licensee holding devices meeting the criteria of subsection (B)(4)(o) is subject to the bankruptcy notification requirements in R12-1-313(D).
  - q. In registering a device, furnish the following information and any other registration information specifically requested by the Agency:
    - i. Name and mailing address of the general licensee;
    - ii. Information about each device, including the manufacturer (or initial transferor), model number, serial number, radioisotope, and activity (as indicated on the label);
    - iii. Name, title, and telephone number of the responsible individual appointed by the general licensee under subsection (B)(4)(n);
    - iv. Address or location at which each device is used and stored. For a portable device, the address of the primary place of storage;
    - v. Certification by the responsible individual that the information concerning each device has been verified through a physical inventory and review of label information; and
    - vi. Certification by the responsible individual that the individual is aware of the requirements of the general license.
  - r. Report a change in mailing address for the location of use or a change in the name of the general licensee to the Agency within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.
  - s. Not use a device if the device has not been used for a period of two years. If a device with shutters is not being used, the general licensee shall ensure that the shutters are locked in the closed position. The testing required by subsection (B)(4)(b) need not be performed during a period of storage. However, if a device is put back into service or transferred to another person, and has not been tested during the required test interval, the general licensee shall ensure that the device is tested for leakage before use or transfer and that the shutter is tested before

use. A device kept in standby for future use is excluded from the two-year time limit in this subsection if the general licensee performs a quarterly physical inventory regarding the standby devices.

5. A person that is generally licensed by an Agreement State with respect to a device that meets the criteria in subsection (B)(4)(o) is exempt from registration requirements if the device is used in an area subject to Agency jurisdiction for a period less than 180 days in any calendar year. The Agency does not request registration information from a general licensee if the device is exempted from licensing requirements in subsection (B)(4)(o).
6. The general license granted under subsection (B)(1) is subject to the provisions of 12 A.A.C. 1, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
7. The general license in subsection (B)(1) of this Section does not authorize the manufacture or import of devices containing byproduct material.

**C. Luminous safety devices for aircraft**

1. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided that each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of promethium-147; and each device has been manufactured, assembled, initially transferred, or imported according to a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled according to the specifications contained in a specific license issued to the manufacturer or assembler of the device by the Agency or any Agreement State or Licensing State in accordance with licensing requirements equivalent to those in 10 CFR 32.53.
2. A person who owns, receives, acquires, possesses, or uses a luminous safety device according to the general license granted in subsection (C)(1) is:
  - a. Exempt from the requirements of 12 A.A.C. 1, Article 4 and Article 10 except that the person shall comply with the reporting and notification provisions of R12-1-443, R12-1-444, R12-1-445, R12-1-447, and R12-1-448;
  - b. Not authorized to manufacture, assemble, repair, or import a luminous safety device that contains tritium or promethium-147;
  - c. Not authorized to export luminous safety devices containing tritium or promethium-147;
  - d. Not authorized to own, receive, acquire, possess, or use radioactive material contained in instrument dials; and
  - e. Subject to the provisions of 12 A.A.C. 1, Articles 1, 3, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.

- D.** This subsection grants a general license that authorizes a person who holds a specific license to own, receive, possess, use, and transfer radioactive material if the Agency issues the license; or special nuclear material if the NRC issues the license. For americium-241, radium-226, and plutonium contained in calibration or reference sources, this subsection grants a general license in accordance with the provisions of subsections (D)(1), (2), and (3). For plutonium, ownership is included in the licensed activities.

1. This subsection grants a general license for calibration or reference sources that have been manufactured according

to the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission under 10 CFR 32.57 or 10 CFR 70.39. This general license also governs calibration or reference sources that have been manufactured according to specifications contained in a specific license issued to the manufacturer by the Agency, an Agreement State, or a Licensing State, according to licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39, revised January 1, 2010, incorporated by reference, and available under R12-1-101. The incorporated material contains no future editions or amendments.

2. A general license granted under subsection (D) or (D)(1) is subject to the provisions of 12 A.A.C. 1, Articles 1, 3, 4, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689. In addition, a person who owns, receives, acquires, possesses, uses, or transfers one or more calibration or reference sources under a general license granted under subsection (D) or (D)(1) shall:
  - a. Not possess at any one time, at any location of storage or use, more than 185 kBq (5 microcuries) of americium-241, plutonium, or radium-226 in calibration or reference sources;
  - b. Not receive, possess, use, or transfer a calibration or reference source unless the source, or the storage container, bears a label that includes one of the following statements, as applicable, or a substantially similar statement that contains the same information:
    - i. The receipt, possession, use and transfer of this source, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (name of the appropriate material) – DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

\_\_\_\_\_  
Name of manufacturer or importer

- ii. The receipt, possession, use and transfer of this source, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

\_\_\_\_\_  
Name of manufacturer or importer

- c. Not transfer, abandon, or dispose of a calibration or reference source except by transfer to a person authorized to receive the source by a license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State;
- d. Store a calibration or reference source, except when the source is being used, in a closed container designed, constructed, and approved for containment of americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

- e. Not use a calibration or reference source for any purpose other than the calibration of radiation detectors or the standardization of other sources.
- 3. The general license granted under subsection (D) or (D)(1) does not authorize the manufacture or import of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- 4. The general license granted under subsections (D) or (D)(1) does not authorize the manufacture or export of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- E. This subsection grants a general license that authorizes a person to receive, possess, use, transfer, own, or acquire carbon-14 urea capsules, which contain one microcurie of carbon-14 urea for "in vivo" human diagnostic use:
  - 1. Except as provided in subsections (E)(2) and (3), a physician is exempt from the requirements for a specific license, provided that each carbon-14 urea capsule for "in vivo" diagnostic use contains no more than 1 microcurie.
  - 2. A physician who desires to use the capsules for research involving human subjects shall obtain a specific license issued according to the specific licensing requirements in this Article.
  - 3. A physician who desires to manufacture, prepare, process, produce, package, repackage, or transfer carbon-14 urea capsules for commercial distribution shall obtain a specific license from the Agency, issued according to the requirements in 10 CFR 32.21, (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.)
  - 4. Nothing in this subsection relieves physicians from complying with applicable FDA and other federal and state requirements governing receipt, administration, and use of drugs.
- F. This subsection grants a general license that authorizes any physician, clinical laboratory, or hospital to use radioactive material for certain "in vitro" clinical or laboratory testing.
  - 1. The general licensee is authorized to receive, acquire, possess, transfer, or use, for any of the following stated tests, the following radioactive materials in prepackaged units:
    - a. Iodine-125, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from such material, to human beings or animals.
    - b. Iodine-131, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
    - c. Carbon-14, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
    - d. Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
    - e. Iron-59, in units not exceeding 740 kilobecquerel (20 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - f. Cobalt-57 or selenium-75, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - g. Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nanocurie) of iodine-129 and 185 becquerel (5 nanocurie) of americium-241 each, for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
- 2. A person shall not acquire, receive, possess, use, or transfer radioactive material according to the general license established by this subsection until the person has filed with the Agency ARRA-9, "Certificate -- "In Vitro" Testing with Radioactive Material Under General License," provided the information listed in Exhibit E, and received a validated copy of ARRA-9, which indicates the assigned certification number. The physician, clinical laboratory, or hospital shall furnish on ARRA-9 the following information:
  - a. Name, telephone number, and address of the physician, clinical laboratory, or hospital; and
  - b. A statement that the physician, clinical laboratory, or hospital has radiation measuring instruments to carry out "in vitro" clinical or laboratory tests with radioactive material and that tests will be performed only by personnel competent to use the instruments and handle the radioactive material.
- 3. A person who receives, acquires, possesses, or uses radioactive material according to the general license granted under this subsection shall:
  - a. Not possess at any one time, in storage or use, a combined total of not more than 7.4 megabecquerels (200 microcuries) of iodine-125, iodine-131, iron-59, cobalt-57, or selenium-75 in excess of 7.4 megabecquerels (200 microcuries), or acquire or use in any one calendar month more than 18.5 megabecquerels (500 microcuries) of these radionuclides.
  - b. Store the radioactive material, until used, in the original shipping container or in a container that provides equivalent radiation protection.
  - c. Use the radioactive material only for the uses authorized by subsection (F).
  - d. Not transfer radioactive material to a person who is not authorized to receive it according to a license issued by the Agency, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or in any manner other than in an unopened, labeled shipping container received from the supplier.
  - e. Not dispose of a mock iodine-125 reference or calibration source described subsection (F)(1) except as authorized by R12-1-434.
- 4. The general licensee shall not receive, acquire, possess, transfer, or use radioactive material according to subsection (F)(1):
  - a. Except as prepackaged units that are labeled according to the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, or any Agreement State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-



14, hydrogen-3 (tritium), iron-59, cobalt-57, selenium-75, or mock iodine-125 for distribution to persons generally licensed under subsection (F) or its equivalent federal law; and

- b. Unless one of the following statements, or a substantially similar statement that contains the same information, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:

- i. This radioactive material may be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The acquisition, receipt, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

\_\_\_\_\_  
Name of manufacturer

- ii. This radioactive material shall be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a Licensing State.

\_\_\_\_\_  
Name of manufacturer

- 5. A physician, clinical laboratory or hospital that possesses or uses radioactive material under a general license granted by subsection (F):
  - a. Shall report to the Agency in writing, any change in the information furnished on the ARRA-9. The report shall be furnished within 30 days after the effective date of the change; and
  - b. Is exempt from the requirements of 12 A.A.C. 1, Article 4 and Article 10 with respect to radioactive material covered by the general license, except that a person using mock iodine-125 sources, described in subsection (F)(1)(g), shall comply with the provisions of R12-1-434, R12-1-443, and R12-1-444 of this Chapter.

- 6. For the purposes of subsection (F), a licensed veterinary care facility is considered a "clinical laboratory."

- G. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, use, and transfer strontium-90, contained in ice detection devices, provided each device contains not more than 1.85 megabecquerels (50 microcuries) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured according to the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer of the device under licensing requirements equivalent to those in 10 CFR 32.61. A person who receives, owns, acquires, possesses, uses, or transfers strontium-90 contained in ice detection devices under a general license in accordance with subsection (G):

- 1. Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person who holds a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service ice detection devices; or dispose of the device according to the provisions of R12-1-434;
- 2. Shall assure that each label, affixed to the device at the time of receipt, which bears a statement that prohibits removal of the labels, maintained on the device; and
- 3. Is exempt from the requirements of 12 A.A.C. 1, Article 4 and Article 10, except that the user of an ice detection device shall comply with the provisions of R12-1-434, R12-1-443 and R12-1-444.
- 4. Shall not manufacture, assemble, disassemble, repair, or import an ice detection device that contains strontium-90.
- 5. Is subject to the provisions of 12 A.A.C. 1, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B), 30-657(A) and (B), 30-681, and 30-685 through 30-689.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-306 renumbered to R12-1-307, new Section R12-1-306 renumbered from R12-1-305 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-306 renumbered to R12-1-305; new Section R12-1-306 renumbered from R12-1-307 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

#### R12-1-307. Repealed

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective December 20, 1985 (Supp. 85-6). Former Section R12-1-307 renumbered to R12-1-308, new Section R12-1-307 renumbered from R12-1-306 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-307 renumbered to R12-1-306; new Section R12-1-307 renumbered from R12-1-308 and repealed by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-308. Filing Application for Specific Licenses

- A. An applicant for a specific license shall file an Agency application. The applicant shall prepare the application in duplicate, one copy for the Agency and the other for the applicant.
- B. The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.
- C. Each application shall contain the information specified in Exhibit (E) of this Article and be signed by the applicant, licensee, or person duly authorized to act for the applicant or licensee.
- D. Unless R12-1-1302 precludes combination with a license of another category, an application for a specific license may include a request for a license that authorizes more than one activity.
- E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or

reports filed with the Agency provided the references are clear and specific.

- F.** The Agency shall make applications and documents submitted to the Agency available for public inspection, but may withhold any document or part of a document from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-308 renumbered to R12-1-309, new Section R12-1-308 renumbered from R12-1-307 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-308 renumbered to R12-1-307; new Section R12-1-308 renumbered from R12-1-309 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### **R12-1-309. General Requirements for Issuance of Specific Licenses**

A license application shall be approved if the Agency determines that:

1. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested according to these rules, in a manner that will minimize danger to public health and safety or property;
2. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;
3. The issuance of the license will not be inimical to the health and safety of the public;
4. The applicant satisfies all applicable special requirements in R12-1-310, R12-1-311, R12-1-322, R12-1-323, 12 A.A.C. 1, Articles 5, 7, and 17; and
5. The applicant demonstrates that a letter has been sent, return receipt requested, to the Mayor's office of the city, town, or, if not within an incorporated community, to the County Board of Supervisors of the county in which the applicant proposes to operate which describes:
  - a. The nature of the proposed activity involving radioactive material; and
  - b. The facility, including use and storage areas.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-309 renumbered to R12-1-310, new Section R12-1-309 renumbered from R12-1-308 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-309 renumbered to R12-1-308; new Section R12-1-309 renumbered from R12-1-310 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### **R12-1-310. Special Requirements for Issuance of Specific Broad Scope Licenses**

- A.** The Agency shall issue three classes of academic and industrial broad scope licenses, and only a single class A medical broad scope license.

1. The license may authorize the radioactive materials in multi-curie quantities, and may authorize other radioactive materials and forms in addition to those listed in subsection (A)(1)(a). A license is a broad scope class A license if it:

- a. Contains the exact wording "Any radioactive material with Atomic Number 3 through 83" or "Any radioactive material with Atomic Number 84 through 92" in License Item 6; and
  - b. Contains the word "any" to authorize the chemical or physical form of the materials in License Item 7;
2. A broad scope class B license is any specific license which authorizes the acquisition, possession, use, and transfer of the radioactive materials specified in Exhibit C of 12 A.A.C. 1, Article 3 in any chemical or physical form and in quantities determined as follows:
    - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column I; or
    - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column I.
  3. A broad scope class C license is any specific license authorizing the possession and use of the radioactive materials specified in Exhibit C of 12 A.A.C. 1, Article 3 in any chemical or physical form and in quantities determined as follows:
    - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column II; or
    - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column II.

**B.** The Agency shall approve:

1. An application for a class A broad scope license if:
  - a. The applicant satisfies the general requirements specified in R12-1-309;
  - b. The applicant has engaged in a reasonable number of activities involving the use of radioactive material. For purposes of this subsection, the requirement of "reasonable number of activities" can be satisfied by showing that the applicant has five years of experience in the use of radioactive material. The Agency may accept less than five years of experience if the applicant's qualifications are adequate for the scope of the proposed license; and
  - c. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
    - i. Establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;
    - ii. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and
    - iii. Establishment of appropriate administrative procedures to assure:
      - (1) Control of procurement and use of radioactive material;
      - (2) Completion of safety evaluations of pro-

- posed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and operating or handling procedures; and
- (3) Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.
2. An application for a class B broad scope license if:
    - a. The applicant satisfies the general requirements specified in R12-1-309; and
    - b. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
      - i. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and available for advice and assistance on radiation safety matters; and
      - ii. Establishment of appropriate administrative procedures to assure:
        - (1) Control of procurement and use of radioactive material;
        - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
        - (3) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared according to subsection (B)(2)(b)(ii) prior to use of the radioactive material.
  3. An application for a class C broad scope license if:
    - a. The applicant satisfies the general requirements specified in R12-1-309; and
    - b. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:
      - i. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and
      - ii. At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and
    - c. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.
- C. Unless specifically authorized, broad-scope licensees shall not:
1. Conduct tracer studies in the environment involving direct release of radioactive material;
  2. Acquire, receive, possess, use, own, import, or transfer devices containing 3.7 petabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;
  3. Conduct activities for which a specific license is issued under R12-1-311, and 12 A.A.C. 1, Articles 5, 7, or 17; or
  4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.
- D. Radioactive material possessed under the class A broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.
  - E. Radioactive material possessed under the class B broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.
  - F. Radioactive material possessed under the class C broad scope license shall only be used by, or under the direct supervision of, individuals who satisfy the requirements of R12-1-310(B)(3)(b).

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Amended effective November 5, 1993 (Supp. 93-4). Former Section R12-1-310 renumbered to R12-1-311, new Section R12-1-310 renumbered from R12-1-309 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-310 renumbered to R12-1-309; new Section R12-1-310 renumbered from R12-1-311 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

#### R12-1-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

- A. Licensing the manufacture and distribution of devices to persons generally licensed under R12-1-306(B).
  1. The Agency shall grant a specific license to manufacture or distribute each device that contains radioactive material, excluding special nuclear material, to persons generally licensed under R12-1-306(B) or equivalent regulations of the U.S. NRC, an Agreement State, or the Licensing State if:
    - a. The applicant satisfies the requirements of R12-1-309;
    - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
      - i. The device can be safely operated by persons not having training in radiological protection;
      - ii. Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive a dose in excess of 10 percent of the limits specified in R12-1-408; and
      - iii. Under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any per-

- son would receive an external radiation dose or dose commitment in excess of the following organ doses:
- (1) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 150 mSv (15 rem)
  - (2) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter; 2 Sv (200 rem)
  - (3) Other organs: 500 mSv (50 rem)
- c. Each device bears a durable, legible, clearly visible label or labels that contain in a clearly identified and separate statement:
- i. Instructions and precautions necessary to assure safe installation, operating, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
  - ii. The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
  - iii. The information called for in one of the following statements in the same or substantially similar form:  
The receipt, possession, use, and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.  
**CAUTION – RADIOACTIVE MATERIAL**  
\_\_\_\_\_  
(name of manufacturer or distributor)  
The receipt, possession, use and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.  
**CAUTION – RADIOACTIVE MATERIAL**  
\_\_\_\_\_  
(name of manufacturer or distributor)
- d. The model, serial number, and name of manufacturer or distributor may be omitted from the label if the information location is specified in labeling affixed to the device;
- e. Each device with a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label that provides the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in R12-1-428, and the name of the manufacturer or initial distributor; and
- f. Each device meets the criteria in 10 CFR 31.5(c)(13)(i) (revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments) and bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in R12-1-428.
2. In the event the applicant desires that the device undergo mandatory testing at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the application shall contain sufficient information to demonstrate that the longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Agency shall consider information which includes, but is not limited to:
    - a. Primary containment (source capsule),
    - b. Protection of primary containment,
    - c. Method of sealing containment,
    - d. Containment construction materials,
    - e. Form of contained radioactive material,
    - f. Maximum temperature withstood during prototype tests,
    - g. Maximum pressure withstood during prototype tests,
    - h. Maximum quantity of contained radioactive material,
    - i. Radiotoxicity of contained radioactive material, and
    - j. Operating experience with identical devices or similarly designed and constructed devices.
  3. In the event the applicant desires that the general licensee under R12-1-306(B), or under equivalent regulations of the NRC or an Agreement State or Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the application shall include written instructions to be followed by the general licensee, estimated calendar quarter doses associated with the activity or activities, and bases for the estimates. The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the limits specified in R12-1-408.
  4. A licensee authorized under subsection (A) to distribute a device to a generally licensed person shall provide, if a device that contains radioactive material is to be transferred for use under the general license granted in R12-1-306(B), the name of each person that is licensed under R12-1-311(A) and the information specified in this subsection for each person to whom a device will be transferred. The licensee shall provide this information before the device may be transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person.

- a. The licensee shall provide:
    - i. A copy of the general license, issued under R12-1-306(B),
    - ii. A copy of R12-1-443 and R12-1-445,
    - iii. A list of the services that can only be performed by a specific licensee,
    - iv. Information on authorized disposal options, including estimated costs of disposal, and
    - v. A list of civil penalties for improper disposal.
  - b. The licensee shall:
    - i. Report on a quarterly basis to the responsible Agreement State or NRC all transfers of devices to persons for use under a general license in accordance with 10 CFR 32.52, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
    - ii. Maintain all information concerning transfers and receipts of devices that supports the reports required by subsection (A)(4)(b).
    - iii. Maintain records required by subsection (A)(4)(b) for a period of three years following the date of the recorded event.
5. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or another Agreement State, each person that is licensed under R12-1-304(B) shall provide the information specified in this subsection to each person to whom a device will be transferred. The licensee shall provide this information before the device is transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person. The licensee shall provide:
- a. A copy of the Agreement State's requirements that are equivalent to R12-1-306(A) and (B), and A.R.S. §§ 30-657, R12-1-443, and R12-1-445. If a copy of NRC regulations is provided to a prospective general licensee in lieu of the Agreement State's requirements, the licensee shall explain in writing that use of the device is regulated by the Agreement State. If certain requirements do not apply to a particular device, the licensee may omit the requirement from the material provided;
  - b. A list of the services that can only be performed by a specific licensee;
  - c. Information on authorized disposal options, including estimated costs of disposal; and
  - d. The name, title, address, and telephone number of the individual at the Agreement State regulatory agency who can provide additional information.
6. A licensee may propose to the Agency an alternate method of informing the customer.
7. If a licensee has notified the Agency of bankruptcy under R12-1-313(E) or is terminating under R12-1-319, the licensee shall provide, upon request, to the Agency, the NRC, or another Agreement State, records of the disposition as required under A.R.S. § 30-657.
8. A licensee authorized to transfer a device to a generally licensed person, shall comply with the following requirements:
- a. The person licensed under subsection (A) shall report all transfers of devices to persons for use under a general license obtained under R12-1-306(B), and all receipts of devices from persons licensed under R12-1-306(B) to the Agency, NRC, or other affected Agreement State. The report shall be submitted on a quarterly basis, in a clear and legible form, and contain the following information:
    - i. The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, the person licensed under subsection (A) shall submit an alternate address for the general licensee, along with information on the actual location of use;
    - ii. The name, title, and telephone number of a person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the applicable laws;
    - iii. The date of transfer;
    - iv. The type, model number, and serial number of the device transferred; and
    - v. The quantity and type of radioactive material contained in the device.
  - b. If one or more intermediaries will temporarily possess the device at the intended place of use before its possession by the intended user, the report shall include the information required of the general licensee in subsection (A)(4) for both the intended user and each intermediary, clearly identifying the intended user and each intermediary.
  - c. For devices received from a general licensee, licensed under R12-1-306(B), the report shall include:
    - i. The identity of the general licensee by name and address;
    - ii. The type, model number, and serial number of the device received;
    - iii. The date of receipt; and
    - iv. In the case of a device not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
  - d. If the person licensed under subsection (A) makes a change to a device possessed by a general licensee so that the label must be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
  - e. The report shall cover a calendar quarter, be filed within 30 days of the end of each calendar quarter, and clearly indicate the period covered by the report.
  - f. The report shall clearly identify the person licensed under subsection (A) submitting the report and include the license number of the license.
  - g. If no transfers are made to or from persons generally licensed under R12-1-306(B) during a reporting period, the person licensed under subsection (A) shall submit a report indicating the lack of activity.
9. The licensee shall maintain records of all transfers for Agency inspection. Records shall be maintained for three years after termination of the license to manufacture the generally licensed devices regulated under R12-1-306(B).
- B.** The Agency shall grant a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices that contain tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under R12-1-306(C), if the applicant satisfies:
1. The general requirements specified in R12-1-309; and

2. The requirements of 10 CFR 32.53 through 32.56 and 32.101, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  - C. The Agency shall grant a specific license to manufacture calibration sources that contain americium-241 or plutonium for distribution to persons generally licensed under R12-1-306(D) if the applicant satisfies:
    1. The general requirements of R12-1-309; and
    2. The requirements of 10 CFR 32.57, 32.58, 32.59, 32.102, and 70.39, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  - D. The Agency shall grant a specific license to distribute radioactive material for use by a physician under the general license in R12-1-306(E) if:
    1. The applicant submits evidence that the radioactive material is to be manufactured, labeled, and packaged under a new drug application that the Commissioner of Food and Drugs, U.S. Food and Drug Administration has approved, or according to a license for a biologic product issued by the FDA; and
    2. One of the following statements, or a substantially similar statement that contains the information called for in the following statements, appears on the label affixed to the container or appears in the leaflet or brochure that accompanies the package:
      - a. This radioactive drug may be received, possessed, and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and general license or its equivalent of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into agreement for the exercise of regulatory authority.

---

 Name of Manufacturer

    - b. This radioactive drug may be received, possessed, and used only by physicians licensed (to dispense drugs) in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or its equivalent of a Licensing State.

---

 Name of Manufacturer
- E. The Agency shall grant for a specific license to manufacture or distribute radioactive material for use under the general license of R12-1-306(F) if:
  1. The applicant satisfies the general requirements specified in R12-1-309.
  2. The radioactive material is to be prepared for distribution in prepackaged units of:
    - a. Iodine-125 in units not exceeding 370 kBq (10 microcuries) each;
    - b. Iodine-131 in units not exceeding 370 kBq (10 microcuries) each;
    - c. Carbon-14 in units not exceeding 370 kBq (10 microcuries) each;
    - d. Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 microcuries) each;
    - e. Iron-59 in units not exceeding 740 kBq (20 microcuries) each;
    - f. Cobalt-57 or selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;
- g. Mock iodine-125 in units not exceeding 1.85 kBq (50 nanocuries) of iodine-129 and 185 Bq (5 nanocuries) of americium-241 each.
3. Each prepackaged unit bears a durable, clearly visible label:
  - a. Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, cobalt-57, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and
  - b. Displaying the radiation caution symbol described in R12-1-428, the words, "CAUTION, RADIOACTIVE MATERIAL," and the phrase "Not for Internal or External Use in Humans or Animals."
4. One of the following statements, or a substantially similar statement that contains the information called for in the following statements appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
  - a. This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

---

 Name of Manufacturer

- b. This radioactive drug may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

---

 Name of Manufacturer
5. The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information about the precautions to be observed in handling and storing the specified radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in R12-1-434.
- F. The Agency shall grant for a specific license to manufacture and distribute ice detection devices to persons generally licensed under R12-1-306(G) if the applicant satisfies:
  1. The general requirements of R12-1-309; and
  2. The criteria of 10 CFR 32.61, 32.62, and 32.103, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

- G.** The Agency shall grant a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs that contain radioactive material for use by a person authorized in accordance with Article 7 of this Chapter, if the applicant meets all of the requirements in 10 CFR 32.72, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- H.** The Agency shall grant a specific license to manufacture and distribute generators or reagent kits that contain radioactive material for preparation of radiopharmaceuticals by persons licensed according to 12 A.A.C. 1, Article 7 if:
1. The applicant satisfies the general requirements of R12-1-309;
  2. The applicant submits evidence that:
    - a. The generator or reagent kit is to be manufactured, labeled and packaged according to the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, a new drug application (NDA) approved by the Food and Drug Administration (FDA), a biologic product license issued by FDA, or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or
    - b. The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act.
  3. The applicant submits information on the radionuclide; chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
  4. The label affixed to the generator or reagent kit contains information on the radionuclide, including quantity, and date of assay; and
  5. The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:
    - a. Adequate information, from a radiation safety stand point, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
    - b. A statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the Agency under 12 A.A.C. 1, Article 7 or equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State or Licensing State. The labels, leaflets or brochures required by this subsection supplement the labeling required by FDA and they may be separate from or, with the approval of FDA, combined with the labeling required by FDA.
- I.** The Agency shall grant a specific license to manufacture and distribute sources and devices that contain radioactive material to a person licensed in accordance with Article 7 of this Chapter for use as a calibration, transmission, or reference source or for medical purposes, if the applicant meets all of the requirements in 10 CFR 32.74, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- J.** Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.
1. The Agency shall grant a specific license to manufacture industrial products and devices that contain depleted uranium for use under R12-1-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State if:
    - a. The applicant satisfies the general requirements in R12-1-309;
    - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive a radiation dose in excess of 10 percent of the limits specified in R12-1-408.
    - c. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
  2. In the case of an industrial product or device whose unique benefits are questionable, the Agency shall approve an application for a specific license under this subsection only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
  3. The Agency may deny any application for a specific license under this subsection if the end use or uses of the industrial product or device cannot be reasonably foreseen.
  4. Each person licensed under subsection (J)(1) shall:
    - a. Maintain the level of quality control required by the license in the manufacture of the industrial product or device and the installation of the depleted uranium into the product or device;
    - b. Label or mark each unit to:
      - i. Identify the manufacturer of the product or device, the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
      - ii. State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
    - c. Assure that the depleted uranium, before being installed in each product or device, has been impressed with the following legend, clearly legible through any plating or other covering: "Depleted Uranium";
    - d. Furnish a copy of the general license contained in R12-1-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license contained in R12-1-305(C); or
    - e. Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R12-1-305(C) and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in R12-1-305(C) and a copy of ARRA-23

- to each person to whom depleted uranium in a product or device is transferred for use under a general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a document explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in R12-1-305(C);
- f. Report to the Agency all transfers of industrial products or devices to persons for use under the general license in R12-1-305(C). The report shall identify each general licensee by name and address, an individual by name or position who serves as the point of contact person for the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under R12-1-305(C) during the reporting period, the report shall so indicate;
    - i. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25; or
    - ii. Report to the responsible state agency all transfers of devices manufactured and distributed under subsection (J)(4)(f) for use under a general license in that state's regulations equivalent to R12-1-305(C);
    - iii. The report required in subsection (J)(4)(f)(i) or (ii) shall identify each general licensee by name and address, an individual by name or position who serves as the contact person for the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person;
    - iv. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;
    - v. If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement state agency; and
    - vi. Keep records showing the name, address, and contact person for each general licensee to whom depleted uranium in industrial products or devices is transferred for use under a general license provided in R12-1-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or of an Agreement State. The records shall be maintained for a period of three years and show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the reporting requirements of this Section.
  - K. A licensee who manufactures nationally tracked sources, as defined in Article 4, shall:
    1. Serialize the sources in accordance with 10 CFR 32.201, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments; and
    2. Report manufacturing activities in accordance with R12-1-454.

#### Historical Note

Former Rule Section C.101. Former Section R12-1-311 repealed, new Section R12-1-311 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-311 renumbered to R12-1-312, new Section R12-1-311 renumbered from R12-1-310 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-311 renumbered to R12-1-310; new Section R12-1-311 renumbered from R12-1-312 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-312. Issuance of Specific Licenses

- A. Upon determination that a license application meets the requirements of the Act and Agency rules, the Agency shall grant a specific license that may contain conditions or limitations if the Agency has determined that additional requirements regarding the proposed activity will protect health and safety.
- B. The Agency may incorporate in any license at the time of issuance, or thereafter by rule or order, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material in order to:
  1. Minimize danger to public health and safety or property;
  2. Require reports and recordkeeping, and provide for inspections of activities under the license as may be necessary to protect health and safety; and
  3. Prevent loss or theft of material subject to this Article.
- C. The Agency may verify information contained in an application and secure additional information necessary to make a determination on issuance of a license and whether any special conditions should be attached to the license. The Agency may inspect the facility or location where radioactive materials would be possessed or used, and discuss details of the proposed possession or use of the radioactive materials with the applicant or representatives designated by the applicant.

#### Historical Note

Former Rule Section C.102; Former Section R12-1-312 repealed, new Section R12-1-312 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-312 renumbered to R12-1-313, new Section R12-1-312 renumbered from R12-1-311 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-312 renumbered to R12-1-311; new Section R12-1-312 renumbered from R12-1-313 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).



**R12-1-313. Specific Terms and Conditions**

- A.** Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Agency.
- B.** A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Agency finds that the transfer is consistent with the Agency's statutes and rules, and gives its consent in writing.
- C.** Each person licensed by the Agency under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.
- D.** Each person licensed under this Section and each general licensee that is required to register under R12-1-306(B)(4)(o) shall notify the Agency in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Agency, in writing:
  1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
    - a. The licensee;
    - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
    - c. An affiliate (as defined in the bankruptcy code) of the licensee.
  2. Providing the following information:
    - a. The bankruptcy court in which the petition for bankruptcy was filed, and
    - b. The bankruptcy case title and number, and
    - c. The date the petition was filed.

**Historical Note**

Former Rule Section C.103; Former Section R12-1-313 repealed, new Section R12-1-313 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Amended effective June 20, 1990 (Supp. 90-2). Former Section R12-1-313 renumbered to R12-1-314, new Section R12-1-313 renumbered from R12-1-312 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-313 renumbered to R12-1-312; new Section R12-1-313 renumbered from R12-1-314 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-314. Expiration of License**

Except as provided in R12-1-315(B), each specific license expires at the end of the day, in the month and year stated on the license.

**Historical Note**

Former Rule Section C.104; Former Section R12-1-314 repealed, new Section R12-1-314 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-314 renumbered to R12-1-315, new Section R12-1-314 renumbered from R12-1-313 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-314 renumbered to R12-1-313; new Section R12-1-314 renumbered from R12-1-315 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-315. Renewal of License**

- A.** An applicant shall file an application for renewal of a specific license according to R12-1-308.

- B.** If a licensee files a renewal application not less than 30 days before the license expiration date and the existing license and associated renewal application is in proper form, the existing license does not expire until a final renewal determination is made by the Agency.

**Historical Note**

Former Rule Section C.105; Former Section R12-1-315 repealed, new Section R12-1-315 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-315 renumbered to R12-1-316, new Section R12-1-315 renumbered from R12-1-314 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-315 renumbered to R12-1-314; new Section R12-1-315 renumbered from R12-1-316 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-316. Amendment of Licenses at Request of Licensee**

An applicant shall file an application for amendment of a specific license by complying with R12-1-308 and specifying the grounds for the amendment.

**Historical Note**

Former Rule Section C.106; Former Section R12-1-316 repealed, new Section R12-1-316 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-316 renumbered to R12-1-317, new Section R12-1-316 renumbered from R12-1-315 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-316 renumbered to R12-1-315; new Section R12-1-316 renumbered from R12-1-317 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-317. ARRA Action on Applications to Renew or Amend**

In considering an application by a licensee to renew or amend a specific license, the Agency shall apply the criteria set forth in R12-1-309, R12-1-310, or R12-1-311 as applicable.

**Historical Note**

Former Rule Section C.107; Former Section R12-1-317 repealed, new Section R12-1-317 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-317 renumbered to R12-1-318, new Section R12-1-317 renumbered from R12-1-316 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-317 renumbered to R12-1-316; new Section R12-1-317 renumbered from R12-1-318 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-318. Transfer of Radioactive Material**

- A.** A licensee shall not transfer radioactive material except as authorized under this Section.
- B.** Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
  1. To the Agency; after receiving prior approval from the Agency;
  2. To the Department of Energy;
  3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
  4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued

by the Agency, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Agency, any Agreement State or Licensing State; or

5. As otherwise authorized by the Agency in writing.
- C. Before transferring radioactive material to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State, or to a general licensee who is required to register with the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D. The transferor shall use one or more of the following methods for the verification required by subsection (C):
  1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
  2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
  3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
  4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or
  5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State that the transferee is licensed to receive the radioactive material.
- E. A transferor shall prepare and transport radioactive material as prescribed in the provisions of 12 A.A.C. 1, Article 15.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-318 renumbered to R12-1-319, new Section R12-1-318 renumbered from R12-1-317 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-318 renumbered to R12-1-317; new Section R12-1-318 renumbered from R12-1-319 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-319. Modification, Revocation, or Termination of a License

- A. The terms and conditions of all licenses are subject to amendment, revision, or modification, and a license may be sus-

pending or revoked by reason of amendments to the Agency's statutes or rules and orders issued by the Agency.

- B. The Agency may revoke, suspend, or modify any license, in whole or in part, for any material false statement in the application; any omission or misstatement of fact required by statute, rule, or order, or because of conditions revealed by the application or any report, record, or inspection or other means that would cause the Agency to refuse to grant a license; or any violation of license terms and conditions, or the Agency's statutes, rules, or orders.
- C. Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, the Agency shall not modify, suspend, or revoke a license unless, before the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the licensee in writing and the licensee has been accorded an opportunity to demonstrate or achieve compliance.
- D. The Agency may terminate a specific license upon a written request by the licensee that provides evidence the licensee has met the termination criteria in R12-1-451, R12-1-452, and the decommissioning requirements in R12-1-323.
- E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Agency determines that the licensee has:
  1. Properly disposed of all radioactive material;
  2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
  3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-323;
  4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-323.
  5. Provided records to the Agency that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-319 renumbered to R12-1-320, new Section R12-1-319 renumbered from R12-1-318 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-319 renumbered to R12-1-318; new Section R12-1-319 renumbered from R12-1-320 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-320. Reciprocal Recognition of Licenses

- A. This subsection grants a general license to perform specific licensed activities in Arizona for a period not to exceed 180 days in any calendar year to any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity involving the use of radioactive material from the U.S. Nuclear Regulatory Commission, Licensing State, or any Agreement State, provided that:

Radiation Regulatory Agency

1. The license does not limit the activity to specified installations or locations;
  2. The out-of-state licensee notifies the Agency in writing at least three days before engaging in the licensed activity. The notification shall indicate the location, period, and type of proposed possession and use within the State, and be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Agency, obtain permission to proceed sooner. The Agency may waive the requirement for filing additional written notifications during the remainder of the calendar year, following receipt of the initial notification from a person engaging in activities under the general license provided in this Section;
  3. The out-of-state licensee complies with all applicable statutes and rules of the Agency and with all the terms and conditions of the license, except those terms and conditions inconsistent with applicable statutes and rules of the Agency;
  4. The out-of-state licensee supplies any other information the Agency requests; and
  5. The out-of-state licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this Section except by transfer to a person:
    - a. Specifically licensed by the Agency, or by the U.S. Nuclear Regulatory Commission to receive the radioactive material; or
    - b. Exempt under R12-1-303(A).
- B.** Notwithstanding the provisions of subsection (A)(1), this subsection grants a general license to manufacture, install, transfer, demonstrate, or service a device described in R12-1-306(B)(1) to any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, Licensing State, or an Agreement State authorizing the same activities within areas subject to the jurisdiction of the licensing body, provided that:
1. The person files a report with the Agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each report shall identify the general licensee to whom the device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;
  2. The device has been manufactured, labeled, installed, and serviced according to the applicable provisions of the specific license issued to the person by the U.S. Nuclear Regulatory Commission or an Agreement State;
  3. The person entering the state ensures that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear the following statement: "Removal of this label is prohibited"; and
  4. The holder of the specific license furnishes a copy of the general license contained in R12-1-306(B), or equivalent rules of the agency having jurisdiction over the manufacture or distribution of the device, to each general licensee to whom the licensee transfers the device or on whose premises the device is installed.
- C.** The Agency may withdraw, limit, or qualify the acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed under a license, upon determining that an action is necessary to prevent undue hazard to public health and safety, or property.
- D.** Before radioactive material can be used at a temporary job site within the state at any federal facility, a specific licensee shall determine the jurisdictional status of the job site. If the jurisdictional status is unknown, the specific licensee shall contact the controlling federal agency to determine whether the job site is under exclusive federal jurisdiction.
- E.** Before using radioactive material at a job site under exclusive federal jurisdiction, a specific licensee shall:
1. Obtain authorization from the NRC; and
  2. Use the radioactive material in accordance with applicable NRC regulations and orders, and be able to demonstrate to the Agency that the correct license fee was paid to the NRC.
- F.** Before radioactive material can be used at a temporary job site in another state, a specific licensee shall obtain authorization from the state, if it is an Agreement State, or from the NRC for any non-Agreement State, either by filing for reciprocity or applying for a specific license.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-320 renumbered to R12-1-321, new Section R12-1-320 renumbered from R12-1-319 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-320 renumbered to R12-1-319; new Section R12-1-320 renumbered from R12-1-321 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

**R12-1-321. Repealed**

**Historical Note**

Former Rule Section C.201; Former Section R12-1-321 repealed, new Section R12-1-321 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-321 renumbered to R12-1-322, new Section R12-1-321 renumbered from R12-1-320 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-321 renumbered to R12-1-320; new Section R12-1-321 renumbered from R12-1-322 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-322. The Need for an Emergency Plan for Response to a Release of Radioactive Material**

- A.** For purposes of this rule, "Emergency Plan" means a procedure that will be followed when an accident occurs involving licensed radioactive materials for which an offsite response may be needed from organizations, such as police, fire, or medical organizations.
- B.** Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Exhibit D, "Radioactive Material Quantities Requiring Consideration for an Emergency Plan" shall contain either:
1. An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or
  2. An emergency plan for responding to a release of radioactive material.

- C. One or more of the following factors may be used to support an evaluation submitted under subsection (B)(1):
1. The radioactive material is physically separated so that only a portion could be involved in an accident.
  2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
  3. The release fraction in the respirable size range would be lower than the release fraction shown in Exhibit D due to the chemical or physical form of the material;
  4. The solubility of the radioactive material would reduce the dose received;
  5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Exhibit D;
  6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Exhibit D; or
  7. Other factors appropriate for the specific facility.
- D. An emergency plan for responding to a release of radioactive material submitted under subsection (B)(2) shall include the following information:
1. A brief description of the licensee's facility and areas near the site that could expose a member of the public to a dose equal to or greater than the levels expressed in subsection (B)(1).
  2. An identification of each type of radioactive materials accident for which protective actions may be needed.
  3. A classification system for classifying accidents as alerts or site area emergencies.
  4. Identification of the means of detecting each type of accident in a timely manner.
  5. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
  6. A brief description of the methods and equipment to assess releases of radioactive materials.
  7. A brief description of the responsibilities of licensee personnel responsible for promptly notifying offsite response organizations and the Agency; also responsibilities for developing, maintaining, and updating the plan.
  8. A commitment to and a brief description of the means to promptly notify offsite response organizations and request off-site assistance, including medical assistance for the treatment of contaminated and injured onsite workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Agency immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.
  9. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Agency.
  10. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
11. A brief description of the means of restoring the facility to a safe condition after an accident.
  12. Provisions for conducting quarterly communications checks with off-site response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the verifying and updating of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Their participation is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise, using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.
  13. A certification that the applicant has met its responsibilities in A.R.S. §§ 26-341 through 26-353 (emergency Planning and Community Right-to-Know Act of 1986), if applicable to the applicant's activities at the proposed place of use of the radioactive material.
- E. The licensee shall allow 60 days for the off-site response organizations, expected to respond in case of an accident, to comment on the licensee's emergency plan before submitting it to the Agency. The licensee shall provide any comments received within the 60 days to the Agency with the emergency plan.

#### Historical Note

Former Section R12-1-322 repealed effective June 30, 1977 (Supp. 77-3). New Section R12-1-322 renumbered from R12-1-321 effective February 18, 1994 (Supp. 94-1). Former Section R12-1-322 renumbered to R12-1-321; new Section R12-1-322 renumbered from R12-1-323 and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-323. Financial Assurance and Recordkeeping for Decommissioning

- A. For purposes of terminating specific licensed activities:
1. "Decommissioning" means to remove a radioactive material use facility safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the radioactive material use license.
  2. "Byproduct material" as used in 10 CFR 30, means "radioactive material" which is defined in A.R.S. § 30-651.
  3. "Facility" means the entire site of radioactive material use, or any separate building or outdoor area where it is used.
  4. "Appendix B to Part 30" as used in 10 CFR 30, means Appendix E in 12 A.A.C. 1, Article 4.
  5. "Financial security" means having a net worth of not less than \$10,000.
- B. When applying, each non-government applicant for a specific license that authorizes the possession and use of radioactive material, and each non-government holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Agency a decommissioning funding plan or certification of financial security, as

required in A.R.S. § 30-672(H). A licensee required to meet the requirements in subsection (C) is exempt from the requirements in this subsection.

- C. When applying, each applicant for a specific license that authorizes the possession and use of radioactive material, and each holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Agency a decommissioning funding plan or certification of financial assurance that meets the requirements in 10 CFR 30.35, 40.36, and 70.25, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- D. Each licensee required to provide financial assurance for decommissioning a radioactive material facility under this Section shall maintain records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Agency. The licensee shall maintain the following records during the decommissioning process:
  - 1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, and site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The licensee shall keep records identifying the involved radionuclides and associated quantities, forms, and concentrations.
  - 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used and stored, and locations of possible inaccessible contamination. If drawings are not available, the licensee shall provide appropriate records describing each location of possible contamination.
  - 3. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- E. Decommissioning procedures:
  - 1. Upon expiration or termination of principal activities a licensee shall notify the Agency in writing whether the licensee is discontinuing licensed activities. The licensee shall begin decommissioning its facility within 60 days after the Agency receives notice of the decision to permanently terminate principal activities, or within 12 months after receipt of notice, submit to the Agency a decommissioning plan, as prescribed in 10 CFR 30.36(g)(1), 40.42(g)(1), and 70.38(g)(1), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. The licensee shall begin decommissioning upon approval of the plan if the license has expired or no licensed activities have been conducted at the licensee's facility for a period of 24 months.
  - 2. In addition to the notification requirements in subsection (E)(1), the licensee shall maintain in effect all decommissioning financial assurances required by this Section. The financial assurances shall be increased or may be decreased as appropriate to cover the cost estimate established for decommissioning in subsection (E)(1). The licensee may reduce the amount of the financial assurance following approval of the decommissioning plan, provided the radiological hazard is decreasing and the licensee has the approval of the Agency.

- 3. The Agency shall extend the time periods established in subsection (E)(1) if a new time period is in the best interest of public health and safety.
  - a. The licensee shall submit a request for an extension no later than 30 days after the Agency receives the notice required in subsection (E)(1).
  - b. If a licensee has requested an extension, the licensee is not required to commence decommissioning activities required in subsection (E)(1), until the Agency has made a determination on the request submitted to the Agency under subsection (E)(3)(a).
- 4. Except as provided in subsection (E)(5), the licensee shall complete decommissioning of a facility as soon as practicable but no later than 24 months following the initiation of decommissioning; and except as provided in subsection (E)(5), when decommissioning involves the entire facility, the licensee shall request license termination as soon as practicable but no later than 24 months following initiation of decommissioning.
- 5. The Agency shall approve a request for an alternate schedule for completion of decommissioning and license termination if the Agency determines that the alternative is warranted by consideration of the conditions specified in 10 CFR 30.36(i), 40.42(i), and 70.38(i), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- 6. As a final step in decommissioning, the licensee shall meet the requirements specified in 10 CFR 30.36(j), 40.42(j), and 70.38(j), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

#### Historical Note

Former Section R12-1-323 repealed effective June 30, 1977 (Supp. 77-3). New Section R12-1-323 adopted effective February 18, 1994 (Supp. 94-1). Former Section R12-1-323 renumbered to R12-1-322; new Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-324. Public Notification and Public Participation

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R12-1-452(C) and (D) or for other events when the Agency deems a notice to be in the public interest, the Agency shall:

- 1. Notify and solicit comments from:
  - a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning, and
  - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R12-1-452(D).
- 2. Publish the notice in the *Arizona Administrative Register* and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

#### Historical Note

Repealed effective June 30, 1977 (Supp. 77-3). New Section made by final rulemaking at 10 A.A.R. 4588, effective December 4, 2004 (Supp. 04-4). Amended by final

rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-325. Timeliness in Decommissioning Facilities**

- A.** “Principal activities,” as used in this Section, means activities authorized by the license that are essential to achieving the purposes for which the license was issued or amended. Storage, during which licensed material is not accessed for use, or disposal and other activities incidental to decontamination or decommissioning are not principal activities.
- B.** Each specific license revoked by the Agency expires at midnight on the date of the Agency’s final determination to revoke the license, the expiration date stated in the determination, or as otherwise provided by Agency order.
- C.** Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material, until the Agency notifies the licensee in writing that the license is terminated. During this time, the licensee shall:
1. Limit actions involving radioactive material to those related to decommissioning;
  2. Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements; and
  3. Pay the applicable annual fee for the license category listed in R12-1-1306.
- D.** Within 60 days of the occurrence of any of the following, each licensee shall notify the Agency in writing of the occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with Agency requirements, or submit within 12 months of notification a decommissioning plan, if required by R12-1-323, and begin decommissioning upon approval of that plan if:
1. The license expires in accordance with subsection (B) or R12-1-314, unless the licensee submits a renewal application in accordance with R12-1-315;
  2. The licensee decides to permanently terminate principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements;
  3. No principal activities under the license have been conducted for a period of 24 months; or
  4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements.

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3). New Section made by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-326. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-327. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-328. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-329. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-330. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-331. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-332. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-333. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-334. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-335. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-336. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-337. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-338. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-339. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-340. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-341. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-342. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-343. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-344. Repealed**

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

## Radiation Regulatory Agency

**R12-1-345. Repealed****Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-346. Repealed****Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-347. Repealed****Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**R12-1-348. Repealed****Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3).

**Exhibit A. Exempt Concentrations**

Element (atomic number)	Isotope	Column I Gas Concentration ( $\mu\text{Ci/ml}$ ) <sup>1/</sup>	Column II Liquid and Solid Concentration ( $\mu\text{Ci/ml}$ ) <sup>2/</sup>
Antimony (51)	Sb-122		$3 \times 10^{-4}$
	Sb-124		$2 \times 10^{-4}$
	Sb-125		$1 \times 10^{-3}$
Argon (18)	Ar-37	$1 \times 10^{-3}$	
	Ar-41	$4 \times 10^{-7}$	
Arsenic (33)	As-73		$5 \times 10^{-3}$
	As-74		$5 \times 10^{-4}$
	As-76		$2 \times 10^{-4}$
	As-77		$8 \times 10^{-4}$
Barium (56)	Ba-131		$2 \times 10^{-3}$
	Ba-140		$3 \times 10^{-4}$
Beryllium (4)	Be-7		$2 \times 10^{-2}$
Bismuth (83)	Bi-206		$4 \times 10^{-4}$
Bromine (35)	Br-82	$4 \times 10^{-7}$	$3 \times 10^{-3}$
Cadmium (48)	Cd-109		$2 \times 10^{-3}$
	Cd-115m		$3 \times 10^{-4}$
	Cd-115		$3 \times 10^{-4}$
Calcium (20)	Ca-45		$9 \times 10^{-5}$
	Ca-47		$5 \times 10^{-4}$
Carbon (6)	C-14	$1 \times 10^{-6}$	$8 \times 10^{-3}$
Cerium (58)	Ce-141		$9 \times 10^{-4}$
	Ce-143		$4 \times 10^{-4}$
	Ce-144		$1 \times 10^{-4}$
Cesium (55)	Cs-131		$2 \times 10^{-2}$
	Cs-134m		$6 \times 10^{-2}$
	Cs-134		$9 \times 10^{-5}$
Chlorine (17)	Cl-38	$9 \times 10^{-7}$	$4 \times 10^{-3}$
Chromium (24)	Cr-51		$2 \times 10^{-2}$
Cobalt (27)	Co-57		$5 \times 10^{-3}$
	Co-58		$1 \times 10^{-3}$
	Co-60		$5 \times 10^{-4}$
Copper (29)	Cu-64		$3 \times 10^{-3}$
Dysprosium (66)	Dy-165		$4 \times 10^{-3}$
	Dy-166		$4 \times 10^{-4}$
Erbium (68)	Er-169		$9 \times 10^{-4}$
	Er-171		$1 \times 10^v$
Europium (63)	Eu-152 ( $T_{1/2}=9.2 \text{ h}$ )		$6 \times 10^{-4}$
	Eu-155		$2 \times 10^{-3}$
Fluorine (9)	F-18	$2 \times 10^{-6}$	$8 \times 10^{-3}$
Gadolinium (64)	Gd-153		$2 \times 10^{-3}$

	Gd-159		8X10 <sup>-4</sup>
Gallium (31)	Ga-72		4X10 <sup>-4</sup>
Germanium (32)	Ge-71		2X10 <sup>-2</sup>
Gold (79)	Au-196		2X10 <sup>-3</sup>
	Au-198		5X10 <sup>-4</sup>
	Au-199		2X10 <sup>-3</sup>
Hafnium (72)	Hf-181		7X10 <sup>-4</sup>
Hydrogen (1)	H-3	5X10 <sup>-6</sup>	3X10 <sup>-2</sup>
Indium (49)	In-113m		1X10 <sup>-2</sup>
	In-114m		2X10 <sup>-4</sup>
Iodine	I-126	3X10 <sup>-9</sup>	2X10 <sup>-5</sup>
	I-131	3X10 <sup>-9</sup>	2X10 <sup>-5</sup>
	I-132	8X10 <sup>-8</sup>	6X10 <sup>-4</sup>
	I-133	1X10 <sup>-8</sup>	7X10 <sup>-5</sup>
	I-134	2X10 <sup>-7</sup>	1X10 <sup>-3</sup>
Iridium (77)	Ir-190		2X10 <sup>-3</sup>
	Ir-192		4X10 <sup>-4</sup>
	Ir-194		3X10 <sup>-4</sup>
Iron (26)	Fe-55		8X10 <sup>-3</sup>
	Fe-59		6X10 <sup>-4</sup>
Krypton (36)	Kr-85m	1X10 <sup>-6</sup>	
	Kr-85	3X10 <sup>-6</sup>	
Lanthanum (57)	La-140		2X10 <sup>-4</sup>
Lead (82)	Pb-203		4X10 <sup>-3</sup>
Lutetium (71)	Lu-177		1X10 <sup>-3</sup>
Manganese (25)	Mn-52		3X10 <sup>-4</sup>
	Mn-54		1X10 <sup>-3</sup>
	Mn-56		1X10 <sup>-3</sup>
Mercury (80)	Hg-197m		2X10 <sup>-3</sup>
	Hg-197		3X10 <sup>-3</sup>
	Hg-203		2X10 <sup>-4</sup>
Molybdenum (42)	Mo-99		2X10 <sup>-3</sup>
Neodymium (60)	Nd-147		6X10 <sup>-4</sup>
	Nd-149		3X10 <sup>-3</sup>
Nickel (28)	Ni-65		1X10 <sup>-3</sup>
Niobium (Columbium) (41)	Nb-95		1X10 <sup>-3</sup>
	Nb-97		9X10 <sup>-3</sup>
Osmium (76)	Os-185		7X10 <sup>-4</sup>
	Os-191m		3X10 <sup>-2</sup>
	Os-191		2X10 <sup>-3</sup>
	Os-193		6X10 <sup>-4</sup>
Palladium (46)	Pd-103		3X10 <sup>-3</sup>
	Pd-109		9X10 <sup>-4</sup>
Phosphorus (15)	P-32		2X10 <sup>-4</sup>
Platinum (78)	Pt-191		1X10 <sup>-3</sup>
	Pt-193m		1X10 <sup>-2</sup>
	Pt-197m		1X10 <sup>-2</sup>
	Pt-197		1X10 <sup>-3</sup>
Potassium (19)	K-42		3X10 <sup>-3</sup>
Praseodymium (59)	Pr-142		3X10 <sup>-4</sup>
	Pr-143		5X10 <sup>-4</sup>
Promethium (61)	Pm-147		2X10 <sup>-3</sup>
	Pm-149		4X10 <sup>-4</sup>



Radiation Regulatory Agency

Rhenium (75)	Re-183		6X10 <sup>-3</sup>
	Re-186		9X10 <sup>-4</sup>
	Re-188		6X10 <sup>-4</sup>
Rhodium (45)	Rh-103m		1X10 <sup>-1</sup>
	Rh-105		1X10 <sup>-3</sup>
Rubidium (37)	Rb-86		7X10 <sup>-4</sup>
Ruthenium (44)	Ru-97		4X10 <sup>-3</sup>
	Ru-103		8X10 <sup>-4</sup>
	Ru-105		1X10 <sup>-3</sup>
	Ru-106		1X10 <sup>-4</sup>
Samarium (62)	Sm-153		8X10 <sup>-4</sup>
Scandium (21)	Sc-46		4X10 <sup>-4</sup>
	Sc-47		9X10 <sup>-4</sup>
	Sc-48		3X10 <sup>-4</sup>
Selenium (34)	Se-75		3X10 <sup>-3</sup>
Silicon (14)	Si-31		9X10 <sup>-3</sup>
Silver (47)	Ag-105		1X10 <sup>-3</sup>
	Ag-110m		3X10 <sup>-4</sup>
	Ag-111		4X10 <sup>-4</sup>
Sodium (11)	Na-24		2X10 <sup>-3</sup>
Strontium (38)	Sr-85		1X10 <sup>-3</sup>
	Sr-89		1X10 <sup>-4</sup>
	Sr-91		7X10 <sup>-4</sup>
	Sr-92		7X10 <sup>-4</sup>
	S-35	9X10 <sup>-8</sup>	6X10 <sup>-4</sup>
Tantalum (73)	Ta-182		4X10 <sup>-4</sup>
Technetium (43)	Tc-96m		1X10 <sup>-1</sup>
	Tc-96		1X10 <sup>-3</sup>
Tellurium (52)	Te-125m		2X10 <sup>-3</sup>
	Te-127m		6X10 <sup>-4</sup>
	Te-127		3X10 <sup>-3</sup>
	Te-129m		3X10 <sup>-4</sup>
	Te-131m		6X10 <sup>-4</sup>
	Te-132		3X10 <sup>-4</sup>
Terbium (65)	Tb-160		4X10 <sup>-4</sup>
Thallium (81)	Tl-200		4X10 <sup>-3</sup>
	Tl-201		3X10 <sup>-3</sup>
	Tl-202		1X10 <sup>-3</sup>
	Tl-204		1X10 <sup>-3</sup>
Thulium (69)	Tm-170		5X10 <sup>-4</sup>
	Tm-171		5X10 <sup>-3</sup>
Tin (50)	Sn-113		9X10 <sup>-4</sup>
	Sn-125		2X10 <sup>-4</sup>
Tungsten (Wolfram) (74)	W-181		4X10 <sup>-3</sup>
	W-187		7X10 <sup>-4</sup>
Vanadium (23)	V-48		3X10 <sup>-4</sup>
Xenon (54)	Xe-131m	4X10 <sup>-6</sup>	
	Xe-133	3X10 <sup>-6</sup>	
	Xe-135	1X10 <sup>-6</sup>	
Ytterbium (70)	Yb-175		1X10 <sup>-3</sup>
Yttrium (39)	Y-90		2X10 <sup>-4</sup>
	Y-91m		3X10 <sup>-2</sup>
	Y-91		3X10 <sup>-4</sup>

	Y-92	6X10 <sup>-4</sup>
	Y-93	3X10 <sup>-4</sup>
Zinc (30)	Zn-65	1X10 <sup>-3</sup>
	Zn-69m	7X10 <sup>-4</sup>
	Zn-69	2X10 <sup>-2</sup>
Zirconium (40)	Zr-95	6X10 <sup>-4</sup>
	Zr-97	2X10 <sup>-4</sup>
	(See notes at end of appendix)	

Beta and/or gamma emitting  
radioactive material not  
listed above with half-life  
less than three years

1X10<sup>-10</sup>1X10<sup>-6</sup>

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A the activity stated is that of the parent isotope and takes into account the daughters.

<sup>1/</sup> Values are given in Column I only for those materials normally used as gases

<sup>2/</sup>  $\mu$ Ci/gm are for solids

NOTE 2: For purposes of Section 303 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

#### Historical Note

Appendix A repealed, Schedule A adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### Exhibit B. Exempt Quantities

<u>Material</u>	<u>Microcuries</u>		
Antimony-122 (Sb-122)	100	Chromium-51 (Cr-51)	1,000
Antimony-124 (Sb-124)	10	Cobalt-57 (Co-57)	100
Antimony-125 (Sb-125)	10	Cobalt-58m (Co-58m)	10
Arsenic-73 (As-73)	100	Cobalt-58 (Co-58)	10
Arsenic-74 (As-74)	10	Cobalt-60 (Co-60)	1
Arsenic-76 (As-76)	10	Copper-64 (Cu-64)	100
Arsenic-77 (As-77)	100	Dysprosium-165 (Dy-165)	10
Barium-131 (Ba-131)	10	Dysprosium-166 (Dy-166)	100
Barium-133 (Ba-133)	10	Erbium-169 (Er-169)	100
Barium-140 (Ba-140)	10	Erbium-171 (Er-171)	100
Bismuth-210 (Bi-210)	1	Europium-152 (Eu-152) (9.2 h)	100
Bromine-82 (Br-82)	10	Europium-152 (Eu-152) (13 yr)	1
Cadmium-109 (Cd-109)	10	Europium-154 (Eu-154)	1
Cadmium-115m (Cd-115m)	10	Europium-155 (Eu-155)	10
Cadmium-115 (Cd-115)	100	Fluorine-18 (F-18)	1,000
Calcium-45 (Ca-45)	10	Gadolinium-153 (Gd-153)	10
Calcium-47 (Ca-47)	10	Gadolinium-159 (Gd-159)	100
Carbon-14 (C-14)	100	<u>Material</u>	<u>Microcuries</u>
Cerium-141 (Ce-141)	100	Gallium-67 (Ga-67)	100
Cerium-143 (Ce-143)	100	Gallium-72 (Ga-72)	10
Cerium-144 (Ce-144)	1	Germanium-71 (Ge-71)	100
Cesium-129 (Cs-129)	100	Gold-195 (Au-195)	10
Cesium-131 (Cs-131)	1,000	Gold-198 (Au-198)	100
Cesium-134m (Cs-134m)	100	Gold-199 (Au-199)	100
Cesium-134 (Cs-134)	1	Hafnium-181 (Hf-181)	10
Cesium-135 (Cs-135)	10	Holmium-166 (Ho-166)	100
Cesium-136 (Cs-136)	10	Hydrogen-3 (H-3)	1,000
Cesium-137 (Cs-137)	10	Indium-113m (In-113m)	100
Chlorine-36 (Cl-36)	10	Indium-114m (In-114m)	10
Chlorine-38 (Cl-38)	10	Indium-115m (In-115m)	100
		Indium-115 (In-115)	10

## Radiation Regulatory Agency

Iodine-123 (I-123)	100	Ruthenium-97 (Ru-97)	100
Iodine-125 (I-125)	1	Ruthenium-103 (Ru-103)	10
Iodine-126 (I-126)	1	Ruthenium-105 (Ru-105)	10
Iodine-129 (I-129)	0.1	Ruthenium-106 (Ru-106)	1
Iodine-131 (I-131)	1	Samarium-151 (Sm-151)	10
Iodine-132 (I-132)	10	Samarium-153 (Sm-153)	100
Iodine-133 (I-133)	1	Scandium-46 (Sc-46)	10
Iodine-134 (I-134)	10	Scandium-47 (Sc-47)	100
Iodine-135 (I-135)	10	Scandium-48 (Sc-48)	10
Iridium-192 (Ir-192)	10	Selenium-75 (Se-75)	10
Iridium-194 (Ir-194)	100	Silicon-31 (Si-31)	100
Iron-52 (Fe-52)	10	Silver-105 (Ag-105)	10
Iron-55 (Fe-55)	100	Silver-110m (Ag-110m)	1
Iron-59 (Fe-59)	10	Silver-111 (Ag-111)	100
Krypton-85 (Kr-85)	100	Sodium-22 (Na-22)	10
Krypton-87 (Kr-87)	10	Sodium-24 (Na-24)	10
Lanthanum-140 (La-140)	10	Strontium-85 (Sr-85)	10
Lutetium-177 (Lu-177)	100	Strontium-89 (Sr-89)	1
Manganese-52 (Mn-52)	10	Strontium-90 (Sr-90)	0.1
Manganese-54 (Mn-54)	10	Strontium-91 (Sr-91)	10
Manganese-56 (Mn-56)	10	Strontium-92 (Sr-92)	10
Mercury-197m (Hg-197m)	100	<u>Material</u>	<u>Microcuries</u>
Mercury-197 (Hg-197)	100	Sulfur-35 (S-35)	100
Mercury-203 (Hg-203)	10	Tantalum-182 (Ta-182)	10
Molybdenum-99 (Mo-99)	100	Technetium-96 (Tc-96)	10
Neodymium-147 (Nd-147)	100	Technetium-97m (Tc-97m)	100
Neodymium-149 (Nd-149)	100	Technetium-97 (Tc-97)	100
Nickel-59 (Ni-59)	100	Technetium-99m (Tc-99m)	100
Nickel-63 (Ni-63)	10	Technetium-99 (Tc-99)	10
Nickel-65 (Ni-65)	100	Tellurium-125m (Te-125m)	10
Niobium-93m (Nb-93m)	10	Tellurium-127m (Te-127m)	10
Niobium-95 (Nb-95)	10	Tellurium-127 (Te-127)	100
Niobium-97 (Nb-97)	10	Tellurium-129m (Te-129m)	10
Osmium-185 (Os-185)	10	Tellurium-129 (Te-129)	100
<u>Material</u>	<u>Microcuries</u>	Tellurium-131m (Te-131m)	10
Osmium-191m (Os-191m)	100	Tellurium-132 (Te-132)	10
Osmium-191 (Os-191)	100	Terbium-160 (Tb-160)	10
Osmium-193 (Os-193)	100	Thallium-200 (Tl-200)	100
Palladium-103 (Pd-103)	100	Thallium-201 (Tl-201)	100
Palladium-109 (Pd-109)	100	Thallium-202 (Tl-202)	100
Phosphorus-32 (P-32)	10	Thallium-204 (Tl-204)	10
Platinum-191 (Pt-191)	100	Thulium-170 (Tm-170)	10
Platinum-193m (Pt-193m)	100	Thulium-171 (Tm-171)	10
Platinum-193 (Pt-193)	100	Tin-113 (Sn-113)	10
Platinum-197m (Pt-197m)	100	Tin-125 (Sn-125)	10
Platinum-197 (Pt-197)	100	Tungsten-181 (W-181)	10
Polonium-210 (Po-210)	0.1	Tungsten-185 (W-185)	10
Potassium-42 (K-42)	10	Tungsten-187 (W-187)	100
Potassium-43 (K-43)	10	Vanadium-43 (V-43)	10
Praseodymium-142 (Pr-142)	100	Xenon-131m (Xe-131m)	1,000
Praseodymium-143 (Pr-143)	100	Xenon-133 (Xe-133)	100
Promethium-147 (Pm-147)	10	Xenon-135 (Xe-135)	100
Promethium-149 (Pm-149)	10	Ytterbium-175 (Yb-175)	100
Rhenium-186 (Re-186)	100	Yttrium-87 (Y-87)	10
Rhenium-188 (Re-188)	100	Yttrium-88 (Y-88)	10
Rhodium-103m (Rh-103m)	100	Yttrium-90 (Y-90)	10
Rhodium-105 (Rh-105)	100	Yttrium-91 (Y-91)	10
Rubidium-81 (Rb-81)	10	Yttrium-92 (Y-92)	100
Rubidium-86 (Rb-86)	10	Yttrium-93 (Y-93)	100
Rubidium-87 (Rb-87)	10	Zinc-65 (Zn-65)	10

## Radiation Regulatory Agency

Zinc-69m (Zn-69m)	100	Zirconium-97 (Zr-97)	10
Zinc-69 (Zn-69)	1,000	Any radionuclide material not	
Zirconium-93 (Zr-93)	10	listed above other than alpha-	
Zirconium-95 (Zr-95)	10	emitting radioactive material	0.1

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**Exhibit C. Limits for Class B and C Broad Scope Licenses (R12-1-310)**

<u>Radioactive Material</u>	<u>Col. I</u> <u>curies</u>	<u>Col. II</u> <u>curies</u>		
Antimony-122	1	0.01	Indium-114m	1
Antimony-124	1	0.01	Indium-115m	100
Antimony-125	1	0.01	Indium-115	1
Arsenic-73	10	0.1	Iodine-125	0.1
Arsenic-74	1	0.01	Iodine-126	0.1
Arsenic-76	1	0.01	Iodine-129	0.1
Arsenic-77	10	0.1	Iodine-131	0.1
Barium-131	10	0.1	Iodine-132	10
Barium-140	1	0.01	Iodine-133	1
Beryllium-7	10	0.1	Iodine-134	10
Bismuth-210	0.1	0.001	Iodine-135	1
Bromine-82	10	0.1	Iridium-192	1
Cadmium-109	1	0.01	Iridium-194	10
Cadmium-115m	1	0.01	Iron-55	10
Cadmium-115	10	0.1	Iron-59	1
Calcium-45	1	0.01	Krypton-85	100
Calcium-47	10	0.1	Krypton-87	10
Carbon-14	100	1.	Lanthanum-140	1
Cerium-141	10	0.1	Lutetium-177	10
Cerium-143	10	0.1	Manganese-52	1
Cerium-144	0.1	0.001	Manganese-54	1
Cesium-131	100	1.	Manganese-56	10
Cesium-134m	100	1.	Mercury-197m	10
Cesium-134	0.1	0.001	Mercury-197	10
Cesium-135	1	0.01	Mercury-203	1
Cesium-136	10	0.1	Molybdenum-99	10
Cesium-137	0.1	0.001	Neodymium-147	10
Chlorine-36	1	0.01	Neodymium-149	10
Chlorine-38	100	1.	Nickel-59	10
Chromium-51	100	1.	Nickel-63	1
Cobalt-57	10	0.1	Nickel-65	10
Cobalt-58m	100	1.	Niobium-93m	1
Cobalt-58	1	0.01	Niobium-95	1
Cobalt-60	0.1	0.001	Niobium-97	100
Copper-64	10	0.1	Osmium-185	1
Dysprosium-165	100	1.	Osmium-191m	100
Dysprosium-166	10	0.1	Osmium-191	10
Erbium-169	10	0.1	Osmium-193	10
Erbium-171	10	0.1	Palladium-103	10
Europium-152 (9.2 h)	10	0.1	Palladium-109	10
Europium-152 (13 yr)	0.1	0.001	Phosphorus-32	1
Europium-154	0.1	0.001	Platinum-191	10
Europium-155	1	0.01	Platinum-193m	100
Fluorine-18	100	1.	Platinum-193	10
Gadolinium-153	1	0.1	Platinum-197m	100
Gadolinium-159	10	0.1	Platinum-197	10
Gallium-72	10	0.1	Polonium-210	0.01
Germanium-71	100	1.	Potassium-42	1
Gold-198	10	0.1	Praseodymium-142	10
Gold-199	10	0.1	Praseodymium-143	10
Hafnium-181	1	0.1	Promethium-147	1
Holmium-166	10	0.1	Promethium-149	10
Hydrogen-3	100	1.	Radium-226	0.01
Indium-113m	100	1.	Rhenium-186	10
			Rhenium-188	10
			Rhodium-103m	1,000

## Radiation Regulatory Agency

Rhodium-105	10	0.1	Tellurium-129	100	1.
Rubidium-86	1	0.01	Tellurium-131m	10	0.1
Rubidium-87	1	0.01	Tellurium-132	1	0.01
Ruthenium-97	100	1.	Terbium-160	1	0.01
Ruthenium-103	1	0.01	Thallium-200	10	0.1
Ruthenium-105	10	0.1	Thallium-201	10	0.1
Ruthenium-106	0.1	0.001	Thallium-202	10	0.1
Samarium-151	1	0.01	Thallium-204	1	0.01
Samarium-153	10	0.1	Thulium-170	1	0.01
Scandium-46	1	0.01	Thulium-171	1	0.01
Scandium-47	10	0.1	Tin-113	1	0.01
Scandium-48	1	0.01	Tin-125	1	0.01
Selenium-75	1	0.01	Tungsten-181	1	0.01
Silicon-31	10	0.1	Tungsten-185	1	0.01
Silver-105	1	0.01	Tungsten-197	10	0.1
Silver-110m	0.1	0.001	Vanadium-43	1	0.01
Silver-111	10	0.1	Xenon-131m	1,000	10
Sodium-22	0.1	0.001	Xenon-133	100	1.
Sodium-24	1	0.01	Xenon-135	100	1.
Strontium-85	1,000	10	Ytterbium-175	10	0.1
Strontium-85	1	0.01	Yttrium-90	1	0.01
Strontium-89	1	0.01	Yttrium-91	1	0.01
Strontium-90	0.01	0.0001	Yttrium-92	10	0.1
Strontium-91	10	0.1	Yttrium-93	1	0.01
Strontium-92	10	0.1	Zinc-65	1	0.01
Sulfur-35	100	0.1	Zinc-69m	10	0.1
Tantalum-182	1	0.01	Zinc-69	100	1.
Technetium-96	10	0.1	Zirconium-93	1	0.01
Technetium-97m	10	0.1	Zirconium-95	1	0.01
Technetium-97	10	0.1	Zirconium-97	1	0.01
Technetium-99m	100	1.	Any radioactive material		
Technetium-99	1	0.01	other than source material,		
Tellurium-125m	1	0.01	special nuclear material,		
Tellurium-127m	1	0.01	or alpha emitting radioactive		
Tellurium-127	10	0.1	material not listed above.	0.1	0.001
Tellurium-129m	1	0.01			

## Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Schedule C repealed; new Exhibit C renumbered from Exhibit D and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

## Exhibit D. Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R12-1-322)

Radioactive Material	Release Fraction	Quantity (Ci)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9 (20 mg)
Carbon-14 (Non CO)	.01	50,000
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000

Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Gadolinium-153	.01	5,000
Germanium-68	.01	2,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Indium-114m	.01	1,000
Iodine-125	.5	10
Iodine-131	.5	10
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-56	.01	60,000

## Radiation Regulatory Agency

Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Ruthenium-106	.01	200
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment		
beta-gamma	.001	10,000
Irradiated material, any form		
other than solid non-		
combustible	.01	1,000
Irradiated material, solid		
noncombustible	.001	10,000
Mixed radioactive waste,		
beta-gamma	.01	1,000
Packaged mixed waste, beta		
gamma	.001	10,000
Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha	.0001	20

Combinations of radioactive materials listed above:

For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Exhibit D exceeds 1.

NOTE: Waste packaged in Type B containers does not require an emergency plan.

#### Historical Note

Adopted effective December 20, 1985 (Supp. 85-6). For-

mer Schedule D renumbered to Exhibit C; new Exhibit D renumbered from Schedule E and amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

### Exhibit E. Application Information

#### 1. Radioactive Material (RAM) Specific License Application Information

An applicant shall provide the following information in a specific license application before a license is issued to the applicant. The Agency shall provide an application form to an applicant with a guide, when possible, to ensure that correct information is provided in the application:

Name and mailing address of applicant	Use location
Contact person	Telephone number
Users of RAM	Training of users
Radiation Safety Officer identity (RSO)	Duties of RSO
Description of RAM and uses	Description of radiation detection/measurement instruments and their calibration
Personnel monitoring	Bioassay program
Facility description	Survey program
Leak test program	Records management program
Instruction to personnel	Waste disposal program
Emergency procedures	Procedures for ordering, receiving, and opening packages
Description of animal use	Licensing fee provided with application
Copy of letter-of-intent to local governing body	Description of ALARA and quality management programs
Description of transportation procedures	Certifying signature
Legal structure of licensee's operation	
Other licensing requirements listed in: R12-1-310, R12-1-311, R12-1-312, R12-1-511, R12-1-703, and R12-1-1721	

#### 2. Radioactive Material (RAM) General License Application Information

An applicant shall provide the following information on a registration certificate. The certificate will be validated and returned to the applicant if the information provided is complete.

Name and address	Telephone number
Where will the radioactive material be used	Address of use location
Description of radioactive material use	Date
Authorizing signature and printed name	Position of person signing the form

#### Historical Note

Adopted effective February 18, 1994 (Supp. 94-1). Former Schedule E renumbered to Exhibit D; new Exhibit adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

# ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

## R12-1-401. Purpose

- A. Article 4 establishes standards for protection against ionizing radiation resulting from activities conducted according to licenses or registrations issued by the Agency. These rules are issued according to A.R.S. Title 30, Chapter 4, as amended.
- B. The requirements of Article 4 are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose equivalent to an individual, including radiation exposure resulting from all sources of radiation other than radiation prescribed by a physician in the practice of medicine, radiation received while voluntarily participating in a medical research program, and background radiation, does not exceed the standards for protection against radiation prescribed in this Article. However, this Article does not limit actions that may be necessary to protect health and safety.

### Historical Note

Former Rule Section D.1; Former Section R12-1-401 repealed, new Section R12-1-401 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

## R12-1-402. Scope

Except as specifically provided in other Articles of these rules, Article 4 applies to persons licensed or registered by the Agency to receive, possess, use, transfer, or dispose of sources of ionizing radiation.

### Historical Note

Former Rule Section D.2; Former Section R12-1-402 repealed, new Section R12-1-402 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended subsection (A) effective June 26, 1987 (Supp. 87-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

## R12-1-403. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Air-purifying respirator” means respiratory protective equipment with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“ALI” means annual limit on intake, the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2.

“Assigned protection factor” or “APF” means the expected workplace level of respirator protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means respiratory protective equipment that supplies the equipment user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

“Class” means a classification scheme for inhaled material according to the material’s rate of clearance from the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, days, of less than 10 days, for Class W, weeks, from 10 to 100 days, and for Class Y, years, of greater than 100 days (see Introduction, Appendix B). For purposes of these rules, “lung class” and “inhalation class” are equivalent terms.

“Constraint” or “dose constraint” means a value above which specified licensee or registrant actions are required.

“Critical group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“DAC” means derived air concentration, the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Appendix B, Table I, Column 3.

“DAC-hour” means derived air concentration-hour, the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

“Declared pregnant woman” means a woman who has voluntarily informed the licensee or registrant in writing of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and the termination of the license.

“Demand respirator” means an atmosphere-supplying respiratory protective equipment that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

“Deterministic effect” (See “Nonstochastic effect”)

“Disposable respirator” means respiratory protective equipment for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent depletion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of device include a disposable half-mask respirator or a disposable, escape-only, self-contained breathing apparatus (SCBA).

“Distinguishable from background” means that the detectable concentration of a radionuclide is statistically greater than the background concentration of that radionuclide in the vicinity of a site or, in the case of structures, in similar materials using accepted measurement, survey, and statistical techniques.

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Filtering face piece (dust mask)” means a particulate respirator that operates under a negative pressure with a filter as an integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

“Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“Fit test” means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“Hood” means a respiratory inlet covering that completely covers the head, neck, and may also cover portions of the shoulders and torso.

“Inhalation class” (See “Class”)

“Loose-fitting face piece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lung class” (See “Class”)

“Nationally tracked source” means a sealed source that contains a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR 20, Appendix E, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. In this context sealed source does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, sub-assembly, fuel rod, or fuel pellet.

“Negative pressure respirator (tight fitting)” means respiratory protective equipment in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term and “threshold” means that which if not exceeded, poses no risk or likelihood of an effect to occur.

“Planned special exposure” means an infrequent exposure to radiation received while employed, but separate from and in addition to the annual occupational dose limits.

“Positive pressure respirator” means respiratory protective equipment in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Powered air-purifying respirator” or “PAPR” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Pressure demand respirator” means a positive pressure, atmosphere-supplying respirator that admits breathing air to the

face piece when the positive pressure is reduced inside the face piece by inhalation.

“Probabilistic effect” (See “Stochastic effect”)

“Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

“Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“Reference Man” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man,” published in 1975 by Pergamon Press, incorporated by reference and on file with the Agency and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, or other media at a site, resulting from activities under a licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials that remain at the site because of routine or accidental release of radioactive material at the site or a previous burial at the site, even if the licensee complied with reagent provisions of 12 A.A.C. 1.

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without a threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Supplied-air respirator” or “SAR” or “airline respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“Tight-fitting face piece” means a respiratory inlet covering that forms a complete seal with the face.

“User seal check” or “fit check” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.



“Very-high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to an individual’s body could result in the individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, the gray and rad should be used, rather than units of dose equivalent, the sievert and rem).

“Weighting factor”  $w_T$  for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of  $w_T$  are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	$w_T$
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 <sup>a</sup>
Whole Body	1.00 <sup>b</sup>
<sup>a</sup> 0.30 results from 0.06 for each of five “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses.	
<sup>b</sup> For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$ , has been specified. The use of other weighting factors for external exposure will be approved by the Agency on a case-by-case basis.	

#### Historical Note

Former Rule Section D.3, Former Section R12-1-403 repealed, new Section R12-1-403 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-404. Units and Quantities

- A. Each licensee or registrant shall use the Standard International (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Article.
- B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Article, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R.

2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-405. Form of Records

- A. A licensee or registrant shall ensure that each record required by this Article is legible throughout the specified retention period. The record shall be the original, a reproduced copy, or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. As an alternative the record may be stored in electronic media capable of producing legible records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
- B. In the records required by this Article, a licensee or registrant may record quantities in SI units in parentheses following each of the required units, curie, rad, and rem, and include multiples and subdivisions.
- C. Notwithstanding subsection (B), the licensee or registrant shall ensure that information is recorded in the International System of Units (SI) or in SI and the units specified in subsection (B) on each shipment manifest as required in R12-1-439(A).
- D. A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Section (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-406. Implementation

Any existing license or registration condition that is more restrictive than this Article remains in force until amendment or renewal of the license or registration.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-407. Radiation Protection Programs

- A. Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of Article 4.
- B. The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).
- C. The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.
- D. To implement the ALARA requirements in subsection (B), and notwithstanding the requirements in R12-1-416, each licensee or registrant governed by A.A.C. Title 12, Chapter 1, Article 3 shall limit air emissions of radioactive material to the environment so that individual members of the public likely to receive the highest dose will not receive a total effective dose equivalent in excess of 0.1mSv (10 mrem) per year from the emis-

sions. If a licensee or registrant subject to this requirement exceeds this limit, the licensee or registrant shall report the incident to the Agency, in accordance with R12-1-444, and take prompt corrective action to prevent additional violations.

**E. Records.**

1. Each licensee or registrant shall maintain records of the radiation protection program, including:
  - a. The provisions of the program; and
  - b. Audits and other reviews of program content and implementation.
2. A licensee or registrant shall retain the records required by subsection (E)(1)(a) for three years after the termination of the license or registration. The licensee or registrant shall retain the records required by subsection (E)(1)(b) for three years after the record is made.
3. The following licensees and registrants are exempt from the record requirements contained in this subsection:
  - B6-General Medical
  - C9-Gas Chromatograph
  - C10-General Industrial
  - D15-Possession Only
  - E2-X-ray Machine class B
  - E3-X-ray Machine class C

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-408. Occupational Dose Amounts for Adults**

- A.** Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures required in R12-1-413, to the following dose limits:
1. An annual limit, which is the more limiting of:
    - a. The total effective dose equivalent being equal to 0.05 Sv (5 rem); or
    - b. The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).
  2. The annual limits to the lens of the eye, to the skin, and to the extremities which are:
    - a. A lens dose equivalent of 0.15 Sv (15 rem), and
    - b. A shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.
- B.** Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See R12-1-413.
- C.** The assigned deep-dose equivalent and shallow-dose equivalent are, for the portion of the body receiving the highest exposure, determined as follows:
1. The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

2. If a protective apron is worn and monitoring is conducted as specified in R12-1-419(B)(6), the effective dose equivalent for external radiation shall be determined as follows:
  - a. If only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in R12-1-408(A), the reported deep-dose equivalent value multiplied by 0.3 is the effective dose equivalent for external radiation; or
  - b. When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation is assigned the value of the sum of the deep-dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep-dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

3. The assigned deep-dose equivalent shall be determined for the part of the body that receives the highest exposure. The assigned shallow-dose equivalent is the dose averaged over the contiguous 10 square centimeters of skin that receives the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

- D.** Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits.
- E.** Notwithstanding the annual dose limits, the licensee shall limit the soluble Uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.
- F.** The licensee or registrant shall reduce the dose that an individual may receive in the current year by the amount of occupational dose received while employed occupationally as a radiation worker by all previous employers. See R12-1-412.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-409. Summation of External and Internal Doses**

- A.** If a licensee or registrant is required to monitor according to both R12-1-419(B) and (C), the licensee or registrant shall add external and internal doses, and use the sum to demonstrate compliance with dose limits. If the licensee or registrant is required to monitor only according to R12-1-419(B) or only according to R12-1-419(C), summation is not required to demonstrate compliance with dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses according to subsections (B), (C), and (D). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the sum-

mation but are subject to separate limits (see R12-1-408(A)(2)).

- B. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity (1):
  1. The sum of the fractions of the inhalation ALI for each radionuclide, or
  2. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or
  3. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using applicable biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors,  $W_T$ , and the committed dose equivalent,  $H_{T,50}$ , per unit intake is greater than 10% of the maximum weighted value of  $H_{T,50}$ , that is,  $W_T H_{T,50}$ , per unit intake for any organ or tissue.
- C. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.
- D. The licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for Hydrogen-3 and does not need to be evaluated or accounted for according to this subsection.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-410. Determination of External Dose from Airborne Radioactive Material

- A. Each licensee shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.
- B. Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended effective June 20, 1990 (Supp. 90-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-411. Determination of Internal Exposure

- A. For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, each licensee or registrant shall, when required according to R12-1-419, take suitable and timely measurements of:
  1. Concentrations of radioactive materials in air in work areas,
  2. Quantities of radionuclides in the body,
  3. Quantities of radionuclides excreted from the body, or
  4. Combinations of these measurements,
- B. Unless respiratory protective equipment is used, as provided in R12-1-425, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.
- C. When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:
  1. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record;
  2. Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
  3. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.
- D. If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in subsection (A)(2) or (3), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by R12-1-444 or R12-1-445. This delay permits the licensee or registrant to make additional measurements basic to the assessments.
- E. If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours is either:
  1. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y from Appendix B for each radionuclide in the mixture; or
  2. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.
- F. If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture is the most restrictive DAC of any radionuclide in the mixture.
- G. If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:
  1. The licensee uses the total activity of the mixture to demonstrate compliance with the dose limits in R12-1-408 and complies with the monitoring requirements in R12-1-419;
  2. The concentration of any radionuclide disregarded is less than 10% of its DAC; and
  3. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.
- H. When determining the committed effective dose equivalent, the following information may be considered:
  1. In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a

committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

2. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee shall also demonstrate that the limit in R12-1-408(A)(1)(b) is met.

#### Historical Note

Former Rule Section D.101; Former Section R12-1-411 repealed, new Section R12-1-411 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended subsection (F) effective June 26, 1987 (87-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-412. Determination of Prior Occupational Dose

- A. For each individual who is likely to receive in a year an occupational dose that requires monitoring according to R12-1-419 the licensee shall:
  1. Determine the occupational radiation dose received during the current year, and
  2. Attempt to obtain the records of lifetime cumulative occupational radiation dose.
- B. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:
  1. The internal and external doses from all previous planned special exposures; and
  2. All doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies; and
  3. All lifetime, cumulative, occupational radiation doses.
- C. In complying with the requirements of subsection (A), a licensee or registrant shall:
  1. Accept, as a record of the occupational dose that the individual received during the current year, a written and signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and
  2. Accept, as the record of lifetime cumulative radiation dose, an up-to-date Agency Form Y (available from the Agency) or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and
  3. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.
- D. Records.

1. The licensee or registrant shall record the exposure history, as required by subsection (A), on Agency Form Y (available from the Agency) or a similar clear and legible record of all the information required by this subsection. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report for preparing Agency Form Y or its equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Agency Form Y or its equivalent indicating each period of time for which there is no data.
2. The licensee or registrant is not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed according to the rules in Article 4 in effect before January 1, 1994. Occupational exposure histories obtained and recorded on Agency Form Y or its equivalent before January 1, 1994, would not have included effective dose equivalent but may be used in the absence of specific information on the intake of radionuclides by the individual.
3. If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall:
  - a. In establishing administrative controls under R12-1-408(F) for the current year, reduce the allowable dose limit for the individual by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and
  - b. Not subject the individual to planned special exposures.
4. The licensee or registrant shall retain current and prior records on Agency Form Y or its equivalent for three years after the Agency terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Agency Form Y or its equivalent for three years after the record is made.

#### Historical Note

Former Rule Section D.102; Former Section R12-1-412 repealed, new Section R12-1-412 adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-413. Planned Special Exposures

- A. A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in R12-1-408, provided that each of the following conditions is satisfied:
  1. The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated from the planned special exposure are unavailable or impractical.
  2. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.

3. Before a planned special exposure, the licensee or registrant ensures that each individual involved is:
  - a. Informed in writing of the purpose of the planned special exposure;
  - b. Informed in writing of the estimated doses, associated potential risks, and specific radiation levels or other conditions that might be involved in performing the task; and
  - c. Instructed in the measures to be taken to keep the dose ALARA, considering other risks that may be present.
4. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall ascertain prior doses as required by R12-1-412(B) for each individual involved.
5. Subject to R12-1-408(B), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses that exceed:
  - a. The numerical value of any of the dose limits in R12-1-408(A) in any year, and
  - b. Five times the annual dose limits in R12-1-408(A) during the individual's lifetime.
6. The licensee or registrant shall maintain records of a planned special exposure in accordance with subsections (B) and (C) and submit a written report to the Agency within 30 days after the date of any planned special exposure conducted in accordance with this Section, informing the Agency that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (B).
7. The licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from a planned special exposure shall not be considered in controlling future occupational dose of the individual according to R12-1-408(A) but shall be included in evaluations required by subsections (A)(4) and (A)(5).

**B. Records.**

1. For each planned special exposure, the licensee or registrant shall maintain records that describe:
  - a. The exceptional circumstances requiring the use of a planned special exposure,
  - b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization,
  - c. What actions were necessary,
  - d. Why the actions were necessary,
  - e. What precautions were taken to assure that doses were minimized in accordance with R12-1-407(B),
  - f. What individual and collective doses were expected,
  - g. The doses actually received in the planned special exposure, and
  - h. The process through which the employee involved in the planned special exposure has been informed in writing of the information contained in subsection (A)(3).
2. The licensee or registrant shall retain the records for three years after the Agency terminates each pertinent license or registration.

- C.** A licensee shall submit a report to the Agency no later than 30 days after a planned special exposure conducted in accordance with subsection (A). The report shall contain the date of the

planned exposure and the information required by subsection (B).

**Historical Note**

Former Rule Section D.103. Former Section R12-1-413 repealed, new Section R12-1-413 adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-414. Occupational Dose Limits for Minors**

The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in R12-1-408.

**Historical Note**

Former Rule Section D. 104; Former Section R12-1-414 repealed, new Section R12-1-414 adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3).

**R12-1-415. Dose Equivalent to an Embryo or Fetus**

- A.** A licensee or registrant shall ensure that the dose equivalent to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). Records shall be maintained according to R12-1-419(D)(4) and (5).
- B.** The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (A).
- C.** For purposes of this Section, the dose equivalent to the embryo or fetus is the sum of:
  1. The deep-dose equivalent to the declared pregnant woman; and
  2. The dose equivalent to the embryo or fetus resulting from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.
- D.** If the dose equivalent to the embryo or fetus is found to have exceeded 5 mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with subsection (A) if the additional dose equivalent to the embryo or fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

**Historical Note**

Former Rule Section D. 105; Former Section R12-1-415 repealed, new Section R12-1-415 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-416. Dose Limits for Individual Members of the Public**

- A.** Each licensee or registrant shall conduct operations so that:
  1. The total effective dose equivalent to any individual member of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, excluding the dose contribution from background radiation, medical administration of radiation, exposure to an

individual who has been administered radioactive material and released in accordance with R12-1-719, voluntary participation in a medical research program, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with R12-1-436; and

2. The dose in any unrestricted area from an external source excluding the dose contribution from an individual who has been administered radioactive material and released in accordance with R12-1-719, does not exceed 0.02 mSv (0.002 rem) in any one hour.
- B.** Registrants possessing radiation machines in operation before August 10, 1994, are exempt from the requirement in subsection (A)(1). Operation of these machines shall be conducted so that the total effective dose equivalent to any individual member of the public does not exceed 5 mSv (0.5 rem) in a year.
- C.** A licensee, registrant, or an applicant for a license or registration may apply for Agency authorization to operate with an annual dose limit of 5 mSv (0.5 rem) for an individual member of the public. The application shall include the following information:
1. An explanation of the need for and the expected duration of operations in excess of the limit in subsection (A), and
  2. The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and
  3. The procedures to be followed to maintain the dose in accordance with R12-1-407(B).
- D.** A licensee or registrant shall comply with the U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which are incorporated by reference, on file with the Agency and contain no future editions or amendments.
- E.** The Agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.
- F.** Each licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials contained in effluents released to unrestricted areas.
- G.** Each licensee or registrant shall:
1. Demonstrate by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or
  2. Demonstrate that:
    - a. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Appendix B, Table II; and
    - b. If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.
- H.** Upon approval from the Agency, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.
- I.** Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public and shall retain the records for three years after the Agency terminates each pertinent license or registration.

### Historical Note

Former Rule Section D. 106; Former Section R12-1-416 repealed, new Section R12-1-416 adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3).

Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

### R12-1-417. Testing for Leakage or Contamination of Sealed Sources

- A.** A licensee in possession of any sealed source shall ensure that:
1. Each sealed source, except as specified in subsection (B), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee or registrant.
  2. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, after evaluation of information specified by R12-1-311(D)(2) and (D)(3), or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
  3. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, after evaluation of information specified by R12-1-311(D)(2) and (D)(3), or equivalent information specified by an Agreement State, a Licensing State, or the Nuclear Regulatory Commission.
  4. Each sealed source suspected of damage or leakage is tested for leakage or contamination before further use.
  5. Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, are capable of detecting the presence of 185 Bq (0.005  $\mu$ Ci) of radioactive material on a test sample. The person conducting the test shall take test samples from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which contamination could accumulate. For a sealed source contained in a device, the person conducting the test shall obtain test samples when the source is in the "off" position.
  6. The test for leakage from brachytherapy sources containing radium is capable of detecting an absolute leakage rate of 37 Bq (0.001  $\mu$ Ci) of Radon-222 in a 24-hour period when the collection efficiency for Radon-222 and its daughters has been determined with respect to collection method, volume, and time.
  7. Tests for contamination from radium daughters are taken on the interior surface of brachytherapy source storage containers and are capable of detecting the presence of 185 Bq (0.005  $\mu$ Ci) of a radium daughter which has a half-life greater than four days.
- B.** A licensee need not perform tests for leakage or contamination on the following sealed sources:
1. Sealed sources containing only radioactive material with a half-life of less than 30 days;
  2. Sealed sources containing only radioactive material as a gas;
  3. Sealed sources containing 3.7 MBq (100  $\mu$ Ci) or less of beta or photon-emitting material or 370 kBq (10  $\mu$ Ci) or less of alpha-emitting material;
  4. Sealed sources containing only Hydrogen-3;
  5. Seeds of Iridium-192 encased in nylon ribbon; and

6. Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall test each sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.
- C. Persons specifically authorized by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission shall perform tests for leakage or contamination from sealed sources.
- D. A licensee shall maintain for Agency inspection test results in units of becquerel or microcurie.
- E. The following is considered evidence that a sealed source is leaking:
  1. The presence of 185 Bq (0.005  $\mu$ Ci) or more of removable contamination on any test sample.
  2. Leakage of 37 Bq (0.001  $\mu$ Ci) of Radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
  3. The presence of removable contamination resulting from the decay of 185 Bq (0.005  $\mu$ Ci) or more of radium.
- F. A licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Article.
- G. A licensee shall file a report with the Agency within five days if the test for leakage or contamination indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results, and the corrective action taken.
- H. A licensee shall maintain records of the tests for leakage required in subsection (A) for three years after the records are made.

#### Historical Note

Former Rule Section D. 107; Former Section R12-1-417 repealed, new Section R12-1-417 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-418. Surveys and Monitoring

- A. Each licensee or registrant shall make, or cause to be made, surveys if surveys are:
  1. Necessary for the licensee or registrant to comply with Article 4, and
  2. Reasonable under the circumstances to evaluate:
    - a. The magnitude and extent of radiation levels,
    - b. Concentrations or quantities of radioactive material, and
    - c. The potential radiological hazards.
- B. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with R12-1-408, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:
  1. Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology, according to NVLAP procedures published

March 1994 as NIST Handbook 150, and NIST Handbook 150-4, published August 1994, which is incorporated by reference, published by the U.S. Government Printing Office, Washington D.C. 20402-9325, and on file with the Agency. The material incorporated by reference contains no future editions or amendments; and

2. Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.
- C. The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device and that personnel monitoring devices are issued to, and used by only the individual to whom the monitoring device has been first issued during any reporting period.
- D. A licensee shall ensure that survey instruments and personnel dosimeters that are used to make quantitative measurements are calibrated in accordance with R12-1-449.
- E. Records.
  1. Each licensee or registrant shall maintain records showing the results of surveys required by this Section and R12-1-433(B). The licensee or registrant shall retain these records for three years after the record is made.
  2. The licensee or registrant shall retain each of the following records for three years after the Agency terminates the license or registration:
    - a. Records of the survey results used to determine the dose from external sources of radiation, in the absence of or in combination with individual monitoring data, and provide an assessment of individual dose equivalents;
    - b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and to assess an internal dose;
    - c. Records showing the results of air sampling, surveys, and bioassays required according to R12-1-425(A)(3)(a) and (b); and
    - d. Records of the measurement and calculation results used to evaluate the release of radioactive effluents to the environment.

#### Historical Note

Former Rule Section D. 108; Former Section R12-1-418 repealed, new Section R12-1-418 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

- A. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Article.
- B. At minimum each licensee or registrant shall supply and require the use of individual monitoring devices by the following personnel:

1. Adults likely to receive, in one year, an intake in excess of 10% of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;
  2. Minors and declared pregnant women likely to receive, in one year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem);
  3. Adults likely to receive, in one year from radiation sources external to the body, a dose in excess of 10 percent of the limits in R12-1-408(A);
  4. Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent to the skin or to the extremities in excess of 5 mSv (0.5 rem);
  5. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem) (Note: All of the occupational doses in R12-1-408 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.); and
  6. Individuals entering a high or very high radiation area;
  7. Individuals operating mobile x-ray equipment, except dental intraoral systems, as described in R12-1-608;
  8. Individuals holding animals for diagnostic x-ray procedures, as described in R12-1-613;
  9. Individuals servicing enclosed beam x-ray systems with bypassed interlocks, as described in R12-1-803;
  10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition;
  11. Individuals performing well logging, as described in Article 17; and
  12. Individuals, wearing a finger or wrist individual monitoring device, during the operation of an open-beam or hand held analytical x-ray system or equipment with no safety devices as described in R12-1-806(C) and (F).
  13. Individuals, wearing a finger or wrist individual monitoring device, performing repairs that require the presence of a primary beam of the analytical x-ray system or equipment, as described in R12-1-806(C) and (F).
- C.** Each licensee shall monitor the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
1. Adults likely to receive, in one year, an intake in excess of 10 percent of the applicable ALI in Table 1, Columns 1 and 2, of Appendix B;
  2. Minors likely to receive, in one year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem); and
  3. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).
- D.** Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:
1. An individual monitoring device, used to obtain the dose equivalent to an embryo or fetus of a declared pregnant woman according to R12-1-415, shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose equivalent to the embryo or fetus if this individual monitoring device has a monthly reported dose equivalent value that exceeds 0.5 millisieverts (50 millirem). For purposes of this subsection, the value for determining the dose equivalent to an embryo or fetus under R12-1-415(C), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron, which has been corrected for the particular individual and the work environment by a qualified expert.
  2. An individual monitoring device used for lens dose equivalent shall be located at the neck or an unshielded location closer to the eye, outside the protective apron.
  3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation, according to R12-1-408(C)(2)(a), the device shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. A second individual monitoring device is required for a declared pregnant woman.
  4. An individual, wearing an extremity personnel monitoring device, during the operation of an open-beam or hand-held analytical x-ray system with no safety devices or an individual performing repairs in the presence of a primary beam of the analytical x-ray system or equipment, as described in R12-1-806(C) and (F), shall wear the device on the individual's finger or wrist.
- E. Records.**
1. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring is required according to this Section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:
    - a. The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;
    - b. The estimated intake of radionuclides;
    - c. The committed effective dose equivalent assigned to the intake of radionuclides;
    - d. The specific information used to assess the committed effective dose equivalent according to R12-1-411(A) and (C), and when required R12-1-419.
    - e. The total effective dose equivalent when required by R12-1-409; and
    - f. The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose;
  2. The licensee or registrant shall make entries of the records specified in subsection (D)(1), at intervals not to exceed one year;
  3. The licensee or registrant shall maintain at the inspection site the records specified in subsection (D)(1), on Agency Form Z (available from the Agency), in accordance with the instructions for Agency Form Z, or in clear and legible records containing all the information required by this subsection;
  4. The licensee or registrant shall maintain the records of dose to an embryo or fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file but may be maintained separately from the dose records;
  5. The licensee or registrant shall retain each required form or record for three years after the Agency terminates each pertinent license or registration requiring the record.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended



effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### **R12-1-420. Control of Access to High Radiation Areas**

- A.** A licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:
  1. A control device that, upon entry into the area, causes the level of radiation to be reduced below the level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in one hour at 30 centimeters from the source from any surface that the radiation penetrates;
  2. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or
  3. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entity.
- B.** In place of the controls required by subsection (A) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.
- C.** The licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.
- D.** The licensee or registrant shall establish the controls required by subsections (A) and (C) in a way that does not prevent individuals from leaving a high radiation area.
- E.** The licensee or registrant is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation, provided that:
  1. The packages do not remain in the area longer than three days, and
  2. The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.
- F.** The licensee or registrant is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in Article 4 and operate in accordance with R12-1-407(B) and the provisions of the licensee's or registrant's radiation protection program.
- G.** The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area if the registrant has met all the specific requirements for access and control specified in other applicable Articles of these rules, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.

#### **Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### **R12-1-421. Control of Access to Very-high Radiation Areas**

- A.** In addition to the requirements in R12-1-420, a licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in one hour at 1 meter from a source or from any surface that the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation or non-self-shielded irradiators.
- B.** The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area, described in subsection (A), if the registrant has met all requirements for access and control specified in other applicable Articles of these rules, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.
- C.** Each licensee or registrant shall maintain records of tests made according to R12-1-422(B)(9) on entry control devices for very-high radiation areas. These records shall include the date, time, and results of each test of function.
- D.** The licensee or registrant shall retain the records required by this Section for three years after the record is made.

#### **Historical Note**

Former Rule Section D.201; Former Section R12-1-421 repealed, new Section R12-1-421 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### **R12-1-422. Control of Access to Irradiators (Very-high Radiation Areas)**

- A.** This Section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. This Section does not apply to sources of radiation that are used in teletherapy, industrial radiography, or completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.
- B.** A licensee or registrant shall ensure that each area in which radiation levels may exceed 5 Gy (500 rad) in one hour at 1 meter from a source that is used to irradiate materials meets the following requirements:
  1. Each entrance or access point shall be equipped with entry control devices that:
    - a. Function automatically to prevent any individual from inadvertently entering a very high radiation area;
    - b. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
    - c. Prevent operation of the source of radiation if it would produce radiation levels in the area that could

- result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in one hour.
2. If the control devices required in subsection (B)(1) fail to function, additional control devices shall be provided so that:
    - a. The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
    - b. Conspicuous visible and audible alarm signals are generated so that an individual entering the area is aware of the hazard. The individual who enters the very-high radiation area after an alarm signals shall be familiar with the process and equipment. Before entering, the individual shall ensure that a second individual is present and aware of the first person's actions.
  3. The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:
    - a. The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour, and
    - b. Conspicuous visible and audible alarm signals are generated so that potentially affected individuals are aware of the hazard. Potentially affected individuals shall notify the licensee or registrant of the failure or removal of the physical barriers.
  4. When the shield for stored sealed sources is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
  5. Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (B)(3) and (4).
  6. The licensee or registrant shall equip each area with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, installed in the area, and which can prevent the source of radiation from being put into operation.
  7. The licensee or registrant shall control each area by use of administrative procedures and devices necessary to ensure that the area is cleared of personnel before each use of the source of radiation.
  8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area will not expose an individual to a deep-dose equivalent in excess of 1 millisievert (0.1 rem) in one hour.
  9. The licensee or registrant shall test the entry control devices required in subsection (B)(1) for proper functioning and keep records according to R12-1-421.
    - a. Testing shall be conducted before initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;
    - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption;
    - c. The licensee or registrant shall submit to the Agency a schedule of testing; and
    - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
  10. The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in a safe condition or effect repairs on controls, unless control devices are functioning properly.
  11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by an individual through one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C.** A licensee, registrant, or applicant seeking a license or registration for a source of radiation within the purview of subsection (B) that will be used in a variety of positions or in locations, such as open fields or forests, that make it impractical to comply with certain requirements of subsection (B) may apply to the Agency for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to that specified in subsection (B). At least one of the alternative measures shall be an entry-preventing interlock control, based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where the sources of radiation are used.
- D.** A licensee or registrant shall provide the entry control devices required by subsections (B) and (C) in such a way that no individual will be prevented from leaving the area.
- E.** Records.
1. Each licensee or registrant shall maintain records of tests made according to subsection (B)(9) on entry control devices for very-high radiation areas. These records shall include the date and results of each test of function.
  2. The licensee or registrant shall retain the records for three years from the date the record is made.

#### Historical Note

Former Rule Section D.202; Former Section R12-1-422 repealed, new Section R12-1-422 adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-423. Use of Process or Other Engineering Controls

A licensee shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentration of radioactive material in air.

#### Historical Note

Former Rule Section D.203. Former Section R12-1-423 repealed, new Section R12-1-423 adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective

June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

**R12-1-424. Use of Other Controls**

- A.** If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R12-1-407(B), increase monitoring and limit intakes by one or more of the following means:
1. Control access,
  2. Limit exposure times,
  3. Use respiratory protection equipment, or
  4. Use other controls.
- B.** If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

**R12-1-425. Use of Individual Respiratory Protection Equipment**

- A.** If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).
  2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Agency and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
  3. The licensee shall implement and maintain a respiratory protection program that includes:
    - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
    - b. Surveys and bioassays, as necessary, to evaluate actual intakes;
    - c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
    - d. Written procedures regarding:
      - i. Monitoring, including air sampling and bioassays;
      - ii. Supervision and training of respirator users;
      - iii. Fit testing;
      - iv. Respirator selection;
      - v. Breathing air quality;
      - vi. Inventory and control;

- vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
- viii. Recordkeeping; and
- ix. Limitations on periods of respirator use and relief from respirator use;
- e. Determination by a physician that each individual user is able to use respiratory protection equipment:
  - i. Before the initial fitting of a face-sealing respirator;
  - ii. Before the first field use of a non-face-sealing respirator, and
  - iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician.
- f. Fit testing, with a fit factor  $\geq 10$  times the APF for a negative pressure device and a fit factor  $\geq 500$  for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.
4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Agency, containing no future editions or amendments). Grade D quality air criteria include:
  - a. Oxygen content (v/v) of 19.5-23.5%;

- b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
  - c. Carbon monoxide (CO) content of 10 ppm or less;
  - d. Carbon dioxide content of 1,000 ppm or less; and
  - e. Lack of noticeable odor.
8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.
- B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
- C. A licensee shall apply to the Agency for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
- 1. State the reason for the higher protection factors; and
  - 2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
- D. The licensee shall notify the Agency in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-426. Security of Stored Sources of Radiation

A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-427. Control of Sources of Radiation Not in Storage

- A. A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and is not in storage or in a patient.
- B. A registrant shall maintain control of radiation machines that are in an unrestricted area and not in storage.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R.

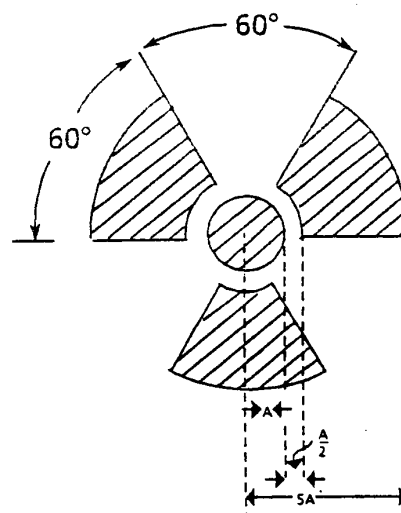
2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-428. Caution Signs

- A. Unless otherwise authorized by the Agency, a licensee or registrant shall use the symbol prescribed by this Section with the colors magenta, or purple, or black on yellow background as the standard radiation symbol. The symbol prescribed is the three-bladed design as follows:

#### RADIATION SYMBOL

- 1. Cross-hatched area is to be magenta, purple, or black; and
- 2. The background is to be yellow.



- B. Notwithstanding the requirements of subsection (A), licensees or registrants are authorized to label sources of radiation, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols that lack the color scheme required in subsection A.
- C. In addition to the contents of signs and labels prescribed in this Article, the licensee or registrant shall provide, on or near the required signs and labels, additional information to make individuals aware of potential radiation exposures and to minimize the exposures.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-428 repealed, new Section R12-1-428 adopted effective June 26, 1987 (Supp. 87-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-429. Posting

- A. A licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."
- B. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."
- C. The licensee or registrant shall post each very-high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."
- D. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the

words “CAUTION, AIRBORNE RADIOACTIVITY AREA” or “DANGER, AIRBORNE RADIOACTIVITY AREA.”

- E. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of licensed material specified in Appendix C with a conspicuous sign or signs bearing the radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL(S)” or “DANGER, RADIOACTIVE MATERIAL(S).”

**Historical Note**

Former Section R12-1-429 repealed effective June 30, 1977 (Supp. 77-3). New Section 12-1-429 adopted effective June 26, 1987 (Supp. 87-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**R12-1-430. Exceptions to Posting Requirements**

- A. A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:
  - 1. The sources of radiation are constantly attended during these periods by an individual who takes precautions necessary to prevent exposure of individuals to sources of radiation in excess of limits established in this Article; and
  - 2. The area or room is subject to the licensee’s or registrant’s control.
- B. A licensee or registrant is not required to post a caution sign in a room or other area in a hospital that is occupied by an individual who has been administered radioactive material, if the individual meets the criteria for release in R12-1-719.
- C. A licensee or registrant is not required to post a caution sign in a room or area because of the presence of a sealed source, provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.
- D. A hospital or clinic licensee is exempt from the posting requirements in R12-1-429 for a teletherapy room if:
  - 1. Access to the room is controlled according to R12-1-731; and
  - 2. Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation that exceeds the limits established in this Chapter.
- E. A registrant is not required to post a caution sign in a room or area because of the presence of radiation machines used solely for diagnosis in the healing arts.

**Historical Note**

Former Section R12-1-430 repealed effective June 30, 1977 (Supp. 77-3). New Section R12-1-430 adopted effective June 26, 1987 (Supp. 87-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-431. Labeling Containers and Radiation Machines**

- A. A licensee shall ensure that each container of licensed material is labeled with a durable, clearly visible radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL” or “DANGER, RADIOACTIVE MATERIAL.” The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the

radioactivity is estimated, radiation level, kind of material, and mass enrichment, to permit an individual handling or using a container, or working in the vicinity of a container, to take precautions to avoid or minimize exposure.

- B. Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- C. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner to caution an individual that radiation is produced when it is energized.
- D. A licensee shall label each syringe and vial that contains a radiopharmaceutical used in the practice of medicine with the radiopharmaceutical content. Each syringe shield and vial shield shall be labeled, unless the label on the syringe or vial is visible when shielded. The label shall contain the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

**Historical Note**

Former Section R12-1-431 repealed effective June 30, 1977 (Supp. 77-3). New Section R12-1-431 adopted effective June 26, 1987 (Supp. 87-2). Amended effective November 5, 1993 (Supp. 93-4). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-432. Labeling Exemptions**

A licensee is not required to label:

- 1. Containers holding licensed material in quantities less than the quantities listed in Appendix C;
- 2. Containers holding licensed material in concentrations less than those specified in Table III of Appendix B;
- 3. Containers attended by an individual who takes precautions necessary to prevent exposure of individuals to radiation in excess of the limits established in this Article;
- 4. Containers holding radioactive material that do not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440 (Revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
- 5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record, retained as long as the container is in use for the purpose indicated on the record. (Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells.); or
- 6. Installed manufacturing or process equipment, such as piping and tanks.

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-433. Procedures for Receiving and Opening Packages**

- A.** Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
1. The package when the carrier offers it for delivery; or
  2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B.** Each licensee shall:
1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains only radioactive material in the form of gas or in special form, as defined in R12-1-102; and
  2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and
  3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C.** The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
- D.** The licensee shall immediately notify the final delivery carrier and the Agency by telephone when:
1. Removable radioactive surface contamination exceeds 22 dpm/cm<sup>2</sup> for beta-gamma emitting radionuclides or 2.2 dpm/cm<sup>2</sup> for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
  2. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour.
- E.** Each licensee shall:
1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
  2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.
- F.** Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in

subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-434. General Requirements for Waste Disposal**

- A.** A licensee shall dispose of licensed material only:
1. By transfer to an authorized recipient as provided in R12-1-439 or in Article 3 of these rules, or to the U.S. Department of Energy;
  2. By decay in storage, according to subsection (C);
  3. By release in effluents within the limits in R12-1-416; or
  4. As authorized according to R12-1-435, R12-1-436, R12-1-437, or R12-1-438;
- B.** To receive waste that contains licensed material from other persons, a person shall be specifically licensed for:
1. Treatment prior to disposal,
  2. Treatment or disposal by incineration,
  3. Decay in storage,
  4. Disposal at a land disposal facility licensed according to Article 3 of these rules, or
  5. Storage until transferred to a storage or disposal facility authorized to receive the waste.

**Historical Note**

Repealed effective June 30, 1977 (Supp. 77-3). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-435. Method for Obtaining Approval of Proposed Disposal Procedures**

For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Agency for approval of proposed disposal procedures, not otherwise authorized in this Chapter. Each application shall include:

1. A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation;
2. The proposed manner and conditions of waste disposal;
3. An analysis and evaluation of pertinent information on the nature of the environment;
4. The nature and location of other potentially affected facilities; and
5. An analysis and procedure to ensure that doses comply with R12-1-407(B), and are within the dose limits in this Article.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-436. Disposal by Release into Sanitary Sewerage System**

- A.** A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

1. The material is readily soluble or is readily dispersible biological material, in water;
  2. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Appendix B, Table III,
  3. If more than one radionuclide is released, the following conditions shall also be satisfied:
    - a. The licensee shall determine the fraction of the limit in Appendix B, Table III represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer by the concentration of that radionuclide listed in Appendix B, Table III, and
    - b. The sum of the fractions for each radionuclide required by subsection (A)(3)(a) does not exceed unity; and
    - c. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of Hydrogen-3, 37 GBq (1 Ci) of Carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined.
- B.** Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (A).

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**R12-1-437. Treatment or Disposal by Incineration**

A licensee shall treat or dispose of licensed material by incineration only in the amounts and forms specified in R12-1-438 or as specifically approved by the Agency according to R12-1-435.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**R12-1-438. Disposal of Specific Wastes**

- A.** A licensee may dispose of the following licensed material as if it were not radioactive:
1. 1.85 kBq (0.05  $\mu$ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of medium used for liquid scintillation counting; and
  2. 1.85 kBq (0.05  $\mu$ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.
  3. 1.85 kBq (0.05  $\mu$ Ci), or less, of Iodine-125 per gram of medium used in analyzing in vitro laboratory samples and associated sample holders contaminated during the laboratory procedure.
- B.** A licensee shall not dispose of tissue, contaminated with radioactive material, according to subsection (A)(2) in a manner that would permit its use either as food for humans or as animal feed.
- C.** A licensee is authorized to hold radioactive material with a physical half-life of 120 days or less for decay in storage before disposal in ordinary trash, and is exempt from the requirements of R12-1-434, provided:
1. The licensee monitors the container of radioactive material at the surface before disposal to determine that its radioactivity cannot be distinguished from the back-

ground radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and

2. The licensee removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.

- D.** The licensee shall maintain records in accordance with R12-1-441.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-439. Transfer for Disposal and Manifests**

- A.** Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility (for purposes of this rule "land disposal facility" means the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive waste. A geologic repository is not a land disposal facility) shall comply with 10 CFR 20 Appendix G, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B.** An authorized representative of the waste generator shall provide the certification required in 10 CFR 20, Appendix G, Section II, which is incorporated by reference under subsection (A).

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-440. Compliance with Environmental and Health Protection Regulations**

Nothing in R12-1-434, R12-1-435, R12-1-436, R12-1-437, R12-1-438, or R12-1-439 relieves the licensee from complying with other applicable federal, state, and local rules or regulations governing any other toxic or hazardous properties of materials that may be disposed of according to the rules listed in Article 4 of this Chapter.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-441. Records of Waste Disposal**

- A.** Each licensee shall maintain records of the disposal of licensed materials made in accordance with R12-1-435, R12-1-436, R12-1-437, R12-1-438, and disposal by burial in soil, including burials authorized before February 25, 1985.
- B.** The licensee shall retain the records required by subsection (A) until the Agency terminates each pertinent license requiring the record. The licensee shall provide for the disposition of these records prior to license termination.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-442. Agency Inspection of Shipments of Waste**

Each shipment of waste to a disposal facility, licensed under R12-1-1302(D)(11), is subject to inspection by the Agency before shipment or transportation. The waste shipper shall notify the Agency not less than five working days before the scheduled shipment or transportation of waste to a licensed disposal facility.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 5 A.A.R. 1812, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**R12-1-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation**

- A.** Each licensee or registrant shall report to the Agency by telephone as follows:
1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;
  2. Within 30 days after it becomes known to the licensee that licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing.
  3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B.** Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Agency that contains the following information:
1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;
  2. A description of the circumstances under which the loss or theft occurred;
  3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
  4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
  5. Actions that have been taken, or will be taken, to recover the source of radiation; and
  6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
- C.** After filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
- D.** The licensee or registrant shall provide the Agency with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Agency under subsection (B).

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-444. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits**

- A.** In addition to the notification required by R12-1-445, each licensee or registrant shall submit a written report within 30 days after learning of any of the following:
1. Incidents for which notification is required by R12-1-445;
  2. Doses in excess of any of the following:
    - a. The occupational dose limits for adults in R12-1-408;
    - b. The occupational dose limits for a minor in R12-1-414;
    - c. The limits for an embryo or fetus of a declared pregnant woman in R12-1-415;
    - d. The limits for an individual member of the public in R12-1-416;
    - e. Any applicable limit in the license or registration; or
    - f. The ALARA limit on air emissions in R12-1-407;
  3. Levels of radiation or concentrations of radioactive material in:
    - a. A restricted area in excess of applicable limits in the license or registration, or
    - b. An unrestricted area in excess of 10 times the applicable limit in this Article or in the license or registration, whether or not this involves an exposure of any individual to a dose in excess of the limits in R12-1-416;
  4. Radiation levels or concentrations of radioactive material in excess of the standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Agency, if the licensee is subject to these federal standards, or there is a license condition referencing the 40 CFR 190 standards. This incorporation by reference contains no future editions or amendments.
- B.** Contents of reports.
1. Each report shall contain a description of each individual's exposure to radiation and radioactive material, including as applicable:
    - a. Estimates of each individual's dose;
    - b. The levels of radiation and concentrations of radioactive material involved;
    - c. The cause of the elevated exposures, dose rates, or concentrations; and
    - d. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.
  2. Each report filed according to subsection (A) shall include for each occupationally overexposed individual: name, Social Security number, and date of birth. With respect to the limit for an embryo or fetus in R12-1-415, the identifiers in the report should be those of the declared pregnant woman. The report shall be prepared so that information regarding each overexposed individual is stated in a separate and detachable part of the report.
- C.** All licensees or registrants who make reports according to subsection (A) shall submit the report in writing to the Agency.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).



**R12-1-445. Notification of Incidents**

**A.** Immediate notification: Each licensee or registrant shall immediately report to the Agency any event involving a radiation source that may have caused or threatens to cause any of the following conditions:

1. An individual to receive:
  - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;
  - b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
  - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or more; or
2. The release of radioactive material, inside or outside of a restricted area, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake (this subsection do not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure).

**B.** Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Agency any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

1. An individual to receive, in a period of 24 hours
  - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
  - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
  - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads); or
2. The release of radioactive material, inside or outside of a restricted area, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake (this subsection does not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure).

**C.** A licensee or registrant shall prepare any report filed with the Agency according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

**D.** A licensee or registrant shall report to the Agency by telephone in response to the requirements of this Section.

**E.** If the Agency does not respond to the initial telephone call, the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Agency Duty Officer until contact is made.

**F.** The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R12-1-413(C).

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-446. Notifications and Reports to Individuals**

**A.** Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in R12-1-1004.

**B.** In addition to the reporting requirements in R12-1-445, each licensee or registrant shall notify the individual exposed to radiation or radioactive material. The notice to the exposed individual shall be provided no later than the date the report is

submitted to the Agency and shall comply with R12-1-1004(A).

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-447. Vacating Premises**

**A.** If a facility has been used for activities involving radioactive material a licensee shall notify the Agency in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.

**B.** If a facility is contaminated with radioactive material, a licensee vacating the facility shall decontaminate it using Agency-approved procedures.

**C.** The Agency shall inspect a vacated facility to determine whether it is contaminated with radioactive material.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).  
Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-448. Additional Reporting**

**A.** Each licensee shall notify the Agency as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.

**B.** Each licensee shall notify the Agency within 24 hours after discovering any of the following events involving licensed material:

1. A contamination event that:
  - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by the imposition of additional radiological controls to prohibit entry into the area; and
  - b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
  - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
2. An event in which equipment is disabled or fails to function as designed when:
  - a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident; and
  - b. The equipment performs a safety function; and
  - c. No redundant equipment is available and operable to perform the required safety function.
3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

- a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
  - b. The damage affects the integrity of the licensed material or its container.
- C. Each licensee shall make reports required by subsections (A) and (B) above by telephone to the Agency. To the extent that the information is available at the time of notification, the information provided in these reports shall include:
  - 1. The callers's name and call back telephone number;
  - 2. A description of the event, including date and time;
  - 3. The exact location of the event;
  - 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
  - 5. Any personnel radiation exposure data available.
- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Agency a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
  - 1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
  - 2. The exact location of the event;
  - 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
  - 4. Date and time of the event;
  - 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
  - 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.

#### Historical Note

Adopted effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-449. Survey Instruments and Pocket Dosimeters

- A. Each licensee or registrant shall ensure that survey instruments used to show compliance with this Article have been calibrated before first use, annually, and following repair, unless otherwise specified in this Chapter.
- B. To satisfy the requirements of subsection (A), the licensee or registrant shall:
  - 1. For each scale to be calibrated, calibrate two readings separated by at least 50 percent of scale rating; and
  - 2. Conspicuously note on the instrument the apparent radiation level, in appropriate units for the type of survey instrument being used and the date of calibration.
- C. Each licensee or registrant shall check each survey instrument for proper operation with the dedicated check source after calibration and before each use.
- D. The licensee or registrant shall retain a record of each calibration required in subsection (A) for three years. The record shall include:
  - 1. A description of the calibration procedure; and
  - 2. A description of the source used, the certified dose rates from the source, the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.
- E. To meet the requirements of subsections (A), (B), and (C), the licensee or registrant may obtain the services of persons licensed or registered by the Agency, the NRC, an Agreement

State, or a Licensing State to perform calibrations of survey instruments. Licensing records of the service person authorization shall be maintained for three years by the licensee or registrant obtaining the service.

- F. Each licensee or registrant shall ensure that pocket dosimeters used to show compliance with this Article:
  - 1. Have been evaluated for proper operation annually and following repair, using a procedure acceptable to the Agency, unless a more frequent evaluation is required by license condition (Unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24-hour period.); and
  - 2. Meet the performance criteria listed in R12-1-523(C) and R12-1-1130(C).
- G. Records of personnel dosimeter operational checks shall be maintained for three years.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-450. Sealed Sources

- A. A licensee shall only receive, possess, and use radioactive materials contained in a sealed source that has been manufactured, labeled, packaged, and distributed in accordance with a specific license for its manufacture and distribution. The license to manufacture and distribute a sealed source shall be issued by the Agency, U.S. Nuclear Regulatory Commission, a Licensing State, or another Agreement State.
- B. A licensee who possesses and uses a sealed source, or any device or equipment that contains a sealed source, shall follow the radiation safety and handling instructions approved by the Agency or follow the radiation safety and handling instructions furnished by the manufacturer on the label attached to the source, on the permanent container of the source, or in a leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form. If the handling instructions, leaflet, or brochure is no longer available and a copy cannot be obtained from the manufacturer, the licensee shall notify the Agency that the source handling information is no longer available.
- C. Inventories:
  - 1. An inventory shall be conducted at intervals not to exceed six months, unless a shorter interval is specified by license condition.
  - 2. The records of the inventory shall be maintained for three years from the date of the inventory, and shall be available for inspection by the Agency.
  - 3. The information recorded shall include:
    - a. The kind and quantity of radioactive material,
    - b. The model and serial number of the source or the device in which it is mounted,
    - c. The location of the sealed source,
    - d. The date of the inventory, and
    - e. The signature of the person performing the inventory.
- D. Any licensee who possesses and uses sealed sources in the practice of medicine shall conduct a physical inventory according to the requirements in 12 A.A.C. 1, Article 7.
- E. Sealed sources, containing radioactive material, shall not be opened unless authorized by license condition.
- F. Sealed sources and machines, devices, or equipment containing sealed sources shall be used in accordance with procedures described in the manufacturer's instructions and the safety precautions described in the Nuclear Regulatory Commission

Sealed Sources and Device Registry, unless the instructions or precautions conflict with these rules or license condition.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-451. Termination of a Radioactive Material License or a Licensed Activity**

- A.** As the final step before terminating a radioactive material use program licensed under R12-1-312, the licensee shall:
  1. Certify to the Agency the disposition of all licensed material, including accumulated wastes, by submitting a complete description of a disposal plan with signed receipts from all licensed persons receiving the licensed material; and
  2. Conduct a radiation survey of the premises where the licensed activities were carried out to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-452 and submit to the Agency a report of the results of this survey, unless the licensee demonstrates in some other manner acceptable to the Agency that the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-452.
- B.** Before terminating a licensed program, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall forward the following records to the Agency:
  1. Records of disposal of the licensed material required by R12-1-435, R12-1-436, R12-1-437, and R12-1-438; and
  2. Records required by R12-1-418(D)(2)(d).
- C.** If a licensed activity is transferred or assigned in accordance with subsection (E), each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall transfer the following records to the new licensee and the new licensee shall maintain these records until the license is terminated:
  1. Records of disposal of licensed material required by R12-1-435, R12-1-436, R12-1-437, and R12-1-438; and
  2. Records required by R12-1-418(D)(2)(d).
- D.** Before the Agency terminates a license, each licensee shall forward the records required by subsection (E) to the Agency.
- E.** A person licensed under R12-1-312 shall maintain required records regarding decommissioning of a facility in a location identified on the license until the Agency releases the site for unrestricted use. Before transfer or assignment of licensed activities, a licensee shall transfer all records required by this Section to the transferee. If records relating to facility decommissioning are kept for other purposes, the transferee shall refer to these records and provide their location on the transferee's application for a license. The transferee shall maintain the records until the Agency terminates the transferee's new license. The new licensee shall maintain the following decommissioning records for Agency review:
  1. Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site. The licensee shall maintain a record of any instance when contamination remains after cleanup procedures or there is a reasonable likelihood that a contaminant has spread to an inaccessible area, as in the case of possible seepage into porous material such as concrete. These records shall include any known information that

identifies any radionuclide involved and its quantity, form, and concentration.

2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and locations of possible inaccessible contamination, such as buried pipes. If as-built drawings are referenced, the licensee need not index each relevant document individually. If drawings are not available, the licensee shall provide records with known information concerning these areas and locations, as prescribed in subsection (E)(1).
3. Except for areas that contain depleted uranium used only for shielding or as penetrators in unused munitions, a list, contained in a single document and updated every two years, of the following:
  - a. Any area designated or formerly designated as a restricted area as defined under R12-1-102;
  - b. Any area outside of a restricted area for which documentation is required under subsection (B)(1);
  - c. Any area outside of a restricted area where wastes have been buried;
  - d. Any area outside of a restricted area that contains regulated radioactive material that will require the licensee to either decontaminate the area for decommissioning under R12-1-452 or obtain disposal approval under R12-1-435; and
  - e. Any restricted area where wastes have been buried.
4. Records of the cost estimate performed for the decommissioning funding plan or the amount certified by the Agency for decommissioning and the method for assuring funding, if either a funding plan or certification is used.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-452. Radiological Criteria for License Termination**

- A.** General provisions and scope:
  1. The criteria in this Section apply to the decommissioning of facilities licensed under Article 3 of this Chapter. The criteria do not apply to uranium and thorium recovery facilities already subject to 10 CFR 40, Appendix A, or to uranium solution extraction facilities.
  2. The criteria in this Section do not apply to sites that:
    - a. Have been decommissioned before the effective date of this Section; or
    - b. Have previously submitted and received Agency approval of a license termination plan (LTP) or decommissioning plan.
  3. If a site has been decommissioned and the license terminated in accordance with the criteria in this Section, the Agency shall not require additional cleanup unless, based on new information, the Agency determines that the criteria of this Section were not met and residual radioactivity at the site is a threat to public health and safety.
  4. When calculating the TEDE for the average member of the critical group, a licensee shall use the peak annual dose expected within the first 1000 years after decommissioning.
- B.** Radiological criteria for unrestricted use. The Agency considers a site acceptable for unrestricted use if the licensee reduces residual radioactivity, distinguishable from background radiation, to a TEDE for an average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year, including radiation from groundwater sources of drinking water, and the residual radioactivity is as low as reasonably achievable

(ALARA). To determine the level that is ALARA, the Agency and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal.

**C. Criteria for license termination under restrictive conditions.** The Agency considers a site acceptable for license termination if the licensee meets all of the following restrictive conditions:

1. The licensee demonstrates that a reduction in residual radioactivity, necessary to comply with subsection (B), will result in net public or environmental harm or is not being made because the residual level of radioactivity is ALARA. To determine the level that is ALARA, the Agency and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal;
2. The licensee establishes one or more legally enforceable institutional controls that reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed (0.15 mSv) 15 mrem per year, including radiation from groundwater sources of drinking water;
3. The licensee demonstrates financial assurance that complies with R12-1-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;
4. The licensee submits a decommissioning plan or License Termination Plan (LTP) to the Agency, indicating the licensee's intent to decommission in accordance with R12-1-323 and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis.
  - a. If a licensee is restricting use of the site, the licensee shall seek comments from the public concerning the proposed decommissioning, regarding all of the following matters:
    - i. Whether the institutional controls proposed by the licensee will reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year; are enforceable; and do not impose an unreasonable burden on the local community or other affected parties; and
    - ii. Whether the licensee has provided financial assurance that complies with R12-1-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;
  - b. In seeking comments on the issues identified in subsection (C)(4)(a), the licensee shall provide for:
    - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
    - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
    - iii. A publicly available document that contains or access to each oral and written comment that reflects the viewpoints of community representatives on each issue and the extent of agree-

ment or disagreement among representatives on each issue; and

5. The licensee reduces residual radioactivity, distinguishable from background radiation, at the site so that if the institutional controls are no longer in effect, the TEDE for the average member of the critical group is as low as reasonably achievable and does not exceed 1 mSv (100 mrem) per year; unless the licensee:

- a. Demonstrates that a further reduction in residual radioactivity necessary to comply with subsection (C)(5) is not technically achievable or economically feasible, or will result in net public or environmental harm;
- b. Provides for durable institutional controls; and
- c. Provides financial assurance that complies with R12-1-323(C), which enables an independent third party, including a governmental custodian of the site, to carry out periodic rechecks of the site, no less frequently than every five years; assures that each institutional control remains in place according to subsection (C)(3); and assumes and carries out responsibilities for maintenance of the institutional control.

**D. Alternate criteria for license termination:**

1. Based on circumstances that relate to a specific license, the Agency may terminate the license using the following alternate criteria for subsections (B) or (C)(2), if the licensee demonstrates that the TEDE from residual radioactivity, distinguishable from background radiation, for an average member of the critical group does not exceed 0.15 mSv (15 mrem) per year, and if the licensee:
  - a. Ensures that public health and safety is protected by submitting an analysis of possible sources of exposure, prepared by a independent qualified expert, which indicates whether it is likely that the dose from all human-made sources combined, other than medical sources, is more than the 1 mSv/y (100 mrem/y) limit in R12-1-416;
  - b. Employs to the extent practicable, restrictions on site use, according to the provisions of subsection (C) to minimize exposures at the site;
  - c. Reduces doses to ALARA levels, taking into consideration any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal; and
  - d. Submits a decommissioning plan or License Termination Plan (LTP) to the Agency that indicates the licensee's intent to decommission in accordance with R12-1-323, and specifies that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis. In seeking comments, the licensee shall provide for:
    - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
    - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
    - iii. A publicly available document that contains or access to each oral and written comment that reflects viewpoints of community representatives on each issue and the extent of agreement

Radiation Regulatory Agency

- and disagreement among the representatives on each issue.
2. The use of alternate criteria to terminate a license requires approval by the Agency after consideration of any comments provided by the U.S. Environmental Protection Agency and any public comments submitted under subsection (E).
- E. Public notification and public participation:**
1. Upon the receipt of an LTP or decommissioning plan from a licensee, or a proposal by a licensee for release of a site under subsection (C) or (D), or whenever the Agency determines that notice will serve the public interest, the Agency shall notify and solicit comments from:
    - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
    - b. The U.S. Environmental Protection Agency.
  2. To comply with subsection(E)(1) the Agency shall publish a notice in a local newspaper, send letters to state or local organizations on its mailing list, hold a public hearing that is readily accessible to individuals in the vicinity of the site, and solicit comments from the public.
- F. Minimization of contamination.** After the effective date of this Section, an applicant for a license, other than a renewal, shall describe in the application how facility design and procedures for operation will facilitate eventual decommissioning and minimize, to the extent practicable, the generation of radioactive waste and contamination of the facility and the environment.
- G.** The Agency considers a site acceptable for unrestricted use if the residual radioactivity, distinguishable from background radiation, is equal to or less than the values in Table 1.

**Table 1. Acceptable Surface Contamination<sup>1</sup> Levels**

Radionuclide <sup>1</sup>	Average <sup>2,3</sup>	Maximum <sup>2,4</sup>	Removable <sup>2,5</sup>
U-nat, U-235, U-238, and associated decay products	5,000 dpm/100 cm <sup>2</sup>	15,000 dpm/100cm <sup>2</sup>	1,000 dpm/100 cm <sup>2</sup>
Transuranics, Ra-226, Ra-228, Th-230, Pa-231, Ac-227, I-125, I-129	100dpm/100cm <sup>2</sup>	300 dpm/100cm <sup>2</sup>	20dpm/100cm <sup>2</sup>
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/100cm <sup>2</sup>	3000 dpm/100cm <sup>2</sup>	200 dpm/100cm <sup>2</sup>
Beta-gamma (Exceptions noted above)	5,000 dpm/100 cm <sup>2</sup>	15,000 dpm/100cm <sup>2</sup>	1,000 dpm/100 cm <sup>2</sup>

<sup>1</sup> Where surface contamination by both alpha-and beta-gamma-emitting radionuclides exists, the limits established for alpha-and beta-gamma-emitting radionuclides apply independently.

<sup>2</sup> As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed on an instrument calibrated for background, efficiency, and geometric factors associated with the instrumentation, in accordance with R12-1-449.

<sup>3</sup> Measurements of average contamination level shall not be averaged over more than one square meter. For objects of less surface area, the average shall be derived for each object.

<sup>4</sup> The maximum contamination level applies to an area of not more than 100 cm<sup>2</sup>.

<sup>5</sup> The amount of removable radioactive material per 100 cm<sup>2</sup> of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an instrument calibrated in accordance with R12-1-449. When removable contamination on objects of surface area A (where A is less than 100 sq. cm) is determined, the entire surface shall be wiped and the contamination level multiplied by 100/A to convert to a "per 100 sq. cm" basis.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-453. Reports to Individuals of Exceeding Dose Limits**

Any licensee or registrant that reports a personnel exposure to the Agency in accordance with R12-1-413(A)(6), R12-1-444, or R12-1-452 shall:

1. Notify the exposed individual of the exposure addressed in the report; and
2. Transmit the report to the exposed individual at the same time the Agency is notified of the exposure.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

**R12-1-454. Nationally Tracked Sources**

- A.** A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Agency, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- B.** The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f) and include the additional information required by 10 CFR 20.2207(h)(1) through (6), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- C.** A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- D.** A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Agency.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-455. Security Requirements for Portable Gauges**

- A.** A licensee that uses a portable gauge shall use a minimum of two independent controls to maintain security while:
1. Transporting a portable gauge; and
  2. Storing a portable gauge.

- B.** Each control shall form a tangible barrier that will prevent unauthorized removal whenever a portable gauge is not under the control and constant surveillance of the licensee.
- C.** A licensee shall employ controls approved by the Agency.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**Appendix A. Assigned Protection Factors for Respirators<sup>a</sup>**

	Operating mode	Assigned Protection Factors
<b>I. Air Purifying Respirators [Particulate <sup>b</sup> only] <sup>c</sup>:</b>		
Filtering face piece disposable <sup>d</sup>	Negative	( <sup>d</sup> )
Face piece, half <sup>e</sup>	Negative Pressure	10
Face piece, full	Negative Pressure	100
Face piece, half	Powered Air-purifying Respirators	50
Face piece, full	Powered Air-purifying Respirators	1000
Helmet/hood	Powered Air-purifying Respirators	1000
Face piece, loose-fitting	Powered Air-purifying Respirators	25
<b>II. Atmosphere supplying respirators [particulate, gases and vapors<sup>f</sup>]:</b>		
<b>1. Air-line respirator:</b>		
Face piece, half	Demand	10
Face piece, half	Continuous Flow	50
Face piece, half	Pressure Demand	50
Face piece, full	Demand	100
Face piece, full	Continuous Flow	1000
Face piece, full	Pressure Demand	1000
Helmet/hood	Continuous Flow	1000
Face piece, loose-fitting	Continuous Flow	25
Suit	Continuous Flow	( <sup>g</sup> )
<b>2. Self-contained breathing Apparatus (SCBA):</b>		
Face piece, full	Demand	<sup>h</sup> 100
Face piece, full	Pressure Demand	<sup>i</sup> 10,000
Face piece, full	Demand, Recirculating	<sup>h</sup> 100
Face piece, full	Positive Pressure Recirculating	<sup>i</sup> 10,000
<b>III. Combination Respirators:</b>		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of operation as listed above	

<sup>a</sup> These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Article. They are applicable only to airborne radiological hazards and may not be appropriate if chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. A licensee shall comply with Department of Labor regulations, regarding selection and use of respirators for those circumstances.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

<sup>b</sup> A licensee shall equip air purifying respirators of APF<100 with particulate filters that are at least 95 percent efficient. The licensee shall equip air purifying respirators of APF=100 with particulate filters that are at least 99 percent efficient. The licensee shall equip air purifying respirators of APF>100 with particulate filters that are at least 99.97 percent efficient.

<sup>c</sup> A licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors, similar to radioiodine.

<sup>d</sup> A Licensee may permit an individual to use this type of respirator if the individual has not been medically screened or fit tested on the device, provided that no credit is taken for use of these respirators in estimation of intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program

requirements listed in 10 CFR 20.1703, January 2000 Edition, and published January 1, 2000, apply and are incorporated by reference and available for review at the Agency and Secretary of State. This incorporation by reference contains no future editions or amendments. There is no assigned protection factor for these devices. However, a licensee may use an APF equal to 10 if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

<sup>e</sup> Under-chin type only. No distinction is made in this appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the face piece (disposable or reusable disposable). Both types are acceptable as long as the seal area of the latter contains some substantial type of seal-enhancing material, such as rubber or plastic, two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Article are met.

<sup>f</sup> The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

<sup>g</sup> No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met. The minimum program requirements are provided in 10 CFR 20.1703.

<sup>h</sup> The licensee shall implement institutional controls to assure that these devices are not used in areas immediately dangerous to life or health (IDLH).

<sup>i</sup> This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

#### Historical Note

Former Appendix A repealed; new Appendix A adopted effective June 30, 1977 (Supp. 77-3). Section repealed; new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

### Appendix B. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage

#### Introduction

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1  $\mu$ m, micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

#### Note:

The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of  $6 \times 10^{-2}$  or 0.06, 6E+2 represents  $6 \times 10^2$  or 600, and 6E+0 represents  $6 \times 10^0$  or 6.

#### Table I "Occupational Values"

Note that the columns in Table I of this Appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC" are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either (1) a committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI, or (2) a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep-dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting

factor,  $W_T$ . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of  $W_T$  are listed under the definition of weighting factor in R12-1-403. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of  $W_T = 0.06$  is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract -- stomach, small intestine, upper large intestine, and lower large intestine -- are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that shall be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall	=	lower large intestine wall,
St. wall	=	stomach wall,
Blad wall	=	bladder wall, and
Bone surf	=	Bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep-dose equivalent plus the internal committed dose equivalent to that organ, not the effective

dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs ( $ALI_{ns}$ ) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is,  $\Sigma (\text{intake (in } \mu\text{Ci) of each radionuclide}/ALI_{ns}) \leq 1.0$ . If there is an external deep dose equivalent contribution of  $H_d$ , then this sum must be less than  $1 - (H_d/50)$ , instead of  $\leq 1.0$ .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$$DAC = ALI(\text{in } \mu\text{Ci}) / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [ALI / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where  $2 \times 10^4$  ml is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See R12-1-407. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

#### Table II "Effluent Concentrations"

The columns in Table II of this Appendix captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of R12-1-415. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason, the DAC and airborne effluent limits are not always proportional as they were in earlier versions of Appendix A of Article 4.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by  $2.4 \times 10^9$ , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^7$ . The factor of  $7.3 \times 10^7$  (ml) includes the following components: the factors of 50 and 2 described above and a factor of  $7.3 \times 10^5$  (ml) which is the annual water intake of Reference Man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

#### Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in R12-1-435. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^6$  (ml). The factor of  $7.3 \times 10^6$  (ml) is composed of a factor of  $7.3 \times 10^5$  (ml), the annual water intake by Reference Man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 0.5 rem.



## Radiation Regulatory Agency

## LIST OF ELEMENTS

<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>	<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>
Actinium	Ac	89	Mendelevium	Md	101
Aluminum	Al	13	Mercury	Hg	80
Americium	Am	95	Molybdenum	Mo	42
Antimony	Sb	51	Neodymium	Nd	60
Argon	Ar	18	Neptunium	Np	93
Arsenic	As	33	Nickel	Ni	28
Astatine	At	85	Niobium	Nb	41
Barium	Ba	56	Osmium	Os	76
Berkelium	Bk	97	Palladium	Pd	46
Beryllium	Be	4	Phosphorus	P	15
Bismuth	Bi	83	Platinum	Pt	78
Bromine	Br	35	Plutonium	Pu	94
Cadmium	Cd	48	Polonium	Po	84
Calcium	Ca	20	Potassium	K	19
Californium	Cf	98	Praseodymium	Pr	59
Carbon	C	6	Promethium	Pm	61
Cerium	Ce	58	Protactinium	Pa	91
Cesium	Cs	55	Radium	Ra	88
Chlorine	Cl	17	Radon	Rn	86
Chromium	Cr	24	Rhenium	Re	75
Cobalt	Co	27	Rhodium	Rh	45
Copper	Cu	29	Rubidium	Rb	37
Curium	Cm	96	Ruthenium	Ru	44
Dysprosium	Dy	66	Samarium	Sm	62
Einsteinium	Es	99	Scandium	Sc	21
Erbium	Er	68	Selenium	Se	34
Europium	Eu	63	Silicon	Si	14
Fermium	Fm	100	Silver	Ag	47
Fluorine	F	9	Sodium	Na	11
Francium	Fr	87	Strontium	Sr	38
Gadolinium	Gd	64	Sulfur	S	16
Gallium	Ga	31	Tantalum	Ta	73
Germanium	Ge	32	Technetium	Tc	43
Gold	Au	79	Tellurium	Te	52
Hafnium	Hf	72	Terbium	Tb	65
Holmium	Ho	67	Thallium	Tl	81
Hydrogen	H	1	Thorium	Th	90
Indium	In	49	Thulium	Tm	69
Iodine	I	53	Tin	Sn	50
Iridium	Ir	77	Titanium	Ti	22
Iron	Fe	26	Tungsten	W	74
Krypton	Kr	36	Uranium	U	92
Lanthanum	La	57	Vanadium	V	23
Lead	Pb	82	Xenon	Xe	54
Lutetium	Lu	71	Ytterbium	Yb	70
Magnesium	Mg	12	Yttrium	Y	39
Manganese	Mn	25	Zinc	Zn	30
			Zirconium	Zr	40

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	( $\mu\text{Ci/ml}$ )
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T <sub>2</sub> ) Submersion <sup>1</sup> : Use above values as HT and T <sub>2</sub> oxidize in air and in the body to HTO.						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see <sup>7</sup> Be	1E+3	2E+2	6E-8	2E-10	-	--
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see <sup>7</sup> Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 <sup>2</sup>	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+ 5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
9	Fluorine-18 <sup>2</sup>	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, Lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see <sup>31</sup> Si	2E+3	2E+2	1E-7	3E-10	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
		W, see <sup>31</sup> Si	-	1E+2	5E-8	2E-10	-	-
		Y, see <sup>31</sup> Si	-	5E+0	2E-9	7E-12	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of $Zn^{2+}$ , $S^{3+}$ , $Mg^{2+}$ , $Fe^{3+}$ , $Bi^{3+}$ , and Lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see $^{32}P$	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see $^{32}P$	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		LLI wall	(8E+3)	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	6E+3	-	-	-	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of Lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38 <sup>2</sup>	D, see $^{36}Cl$	2E+4	4E+4	2E-5	6E-8	-	-
		St wall	(3E+4)	-	-	-3E-4	3E-3	-
		W, see $^{36}Cl$	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39 <sup>2</sup>	D, see $^{36}Cl$	2E+4	5E+4	2E-5	7E-8	-	-
		St wall	(4E+4)	-	-	-5E-4	5E-3	-
		W, see $^{36}Cl$	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion <sup>1</sup>	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion <sup>1</sup>	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45 <sup>2</sup>	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St watt	(5E+4)	-	-	-	7E-4	7E-3

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
20	Calcium-41	W, all compounds	3E+3 Bone surf (4E+3)	4E+3 Bone surf (4E+3)	2E-6 -	- 5E-9	- 6E-5	- 6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3 LLI wall (3E+3)	3E+3 - -	1E-6 - -	4E-9 - -	- 4E-5 1E-5	- 4E-4 1E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 <sup>2</sup>	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y W, oxides, hydroxides, carbides, halides, and nitrates	3E+2 -	1E+1 3E+1	5E-9 1E-8	2E-11 4E-11	4E-6 -	4E-5 -
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see <sup>44</sup> Ti W, see <sup>44</sup> Ti Y, see <sup>44</sup> Ti	9E+3 - -	3E+4 4E+4 3E+4	1E-5 1E-5 1E-5	3E-8 5E-8 4E-8	1E-4 - -	1E-3 - -
23	Vanadium-47 <sup>2</sup>	D, all compounds except those given for W W, oxides, hydroxides, carbides, and halides	3E+4 St wall (3E+4) -	8E+4 - 1E+5	3E-5 - 4E-5	1E-7 - 1E-7	- 4E-4 -	- 4E-3 -
23	Vanadium-48	D, see <sup>47</sup> V W, see <sup>47</sup> V	6E+2 -	1E+3 6E+2	5E-7 3E-7	2E-9 9E-10	9E-6 -	9E-5 -
23	Vanadium-49	D, see <sup>47</sup> V	7E+4 LLI wall (9E+4)	3E+4 Bone surf (3E+4)	1E-5 - -	- 5E-8	- 1E-3	- 1E-2
24	Chromium-48	W, see <sup>47</sup> V D, all compounds except those given for W and Y W, halides and nitrates Y, oxides and hydroxides	- 6E+3 -	2E+4 1E+4 7E+3 7E+3	8E-6 5E-6 3E-6 3E-6	2E-8 2E-8 1E-8 1E-8	- 8E-5 - -	- 8E-4 - -
24	Chromium-49 <sup>2</sup>	D, see <sup>48</sup> Cr W, see <sup>48</sup> Cr Y, see <sup>48</sup> Cr	3E+4 - -	8E+4 1E+5 9E+4	4E-5 4E-5 4E-5	1E-7 1E-7 1E-7	4E-4 - -	4E-3 - -
24	Chromium-51	D, see <sup>48</sup> Cr W, see <sup>48</sup> Cr Y, see <sup>48</sup> Cr	4E+4 - -	5E+4 2E+4 2E+4	2E-5 1E-5 8E-6	6E-8 3E-8 3E-8	5E-4 - -	5E-3 - -
25	Manganese-51 <sup>2</sup>	D, all compounds except those given for W W, oxides, hydroxides, halides, and nitrates	2E+4 -	5E+4 6E+4	2E-5 3E-5	7E-8 8E-8	3E-4 -	3E-3 -

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col.3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col.2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
25	Manganese-52m <sup>2</sup>	D, see <sup>51</sup> Mn	3E+4 St wall (4E+4)	9E+4 -	4E-5 -	1E-7 -	- 5E-4	- 5E-3
		W, see <sup>51</sup> Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see <sup>51</sup> Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see <sup>51</sup> Mn	-	9E+2	4E-7	1E-9	-	-
25	Manganese-53	D, see <sup>51</sup> Mn	5E+4	1E+4 Bone surf (2E+4)	5E-6 -	- 3E-8	7E-4 -	7E-3 -
		W, see <sup>51</sup> Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see <sup>51</sup> Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see <sup>51</sup> Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see <sup>51</sup> Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see <sup>51</sup> Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see <sup>52</sup> Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see <sup>52</sup> Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see <sup>52</sup> Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see <sup>52</sup> Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see <sup>52</sup> Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see <sup>52</sup> Fe	-	2E+1	8E-9	3E-11	-	-
27	Cob9alt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see <sup>55</sup> Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see <sup>55</sup> Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see <sup>55</sup> Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see <sup>55</sup> Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see <sup>55</sup> Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see <sup>55</sup> Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see <sup>55</sup> Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see <sup>55</sup> Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m <sup>2</sup>	W, see <sup>55</sup> Co	1E+6 St wall (1E+6)	4E+6 -	2E-3 -	6E-6 -	- 2E-2	- 2E-1
		Y, see <sup>55</sup> Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see <sup>55</sup> Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see <sup>55</sup> Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61 <sup>2</sup>	W, see <sup>55</sup> Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see <sup>55</sup> Co	2E+4	6E+4	2E-5	8E-8	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
27	Cobalt-62m <sup>2</sup>	W, see <sup>55</sup> Co St wall	4E+4 (5E+4)	2E+5 -	7E-5 -	2E-7 -	- 7E-4	- 7E-3
28	Nickel-56	Y, see <sup>55</sup> Co D, all compounds except those given for W W, oxides, hydroxides, and carbides Vapor	- 1E+3 - -	2E+5 2E+3 1E+3 1E+3	6E-5 8E-7 5E-7 5E-7	2E-7 3E-9 2E-9 2E-9	- 2E-5 - -	- 2E-4 - -
28	Nickel-57	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	2E+3 - -	5E+3 3E+3 6E+3	2E-6 1E-6 3E-6	7E-9 4E-9 9E-	2E-5 - -	2E-4 - -
28	Nickel-59	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	2E+4 - -	4E+3 7E+3 2E+3	2E-6 3E-6 8E-7	5E-9 1E-8 3E-9	3E-4 - -	3E-3 - -
28	Nickel-63	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	9E+3 - -	2E+3 3E+3 8E+2	7E-7 1E-6 3E-7	2E-9 4E-9 1E-9	1E-4 - -	1E-3 - -
28	Nickel-65	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	8E+3 - -	2E+4 3E+4 2E+4	1E-5 1E-5 7E-6	3E-8 4E-8 2E-8	1E-4 - -	1E-3 - -
28	Nickel-66	D, see <sup>56</sup> Ni LLI wall	4E+2 (5E+2)	2E+3 -	7E-7 -	2E-9 -	- 6E-6	- 6E-5
		W, see <sup>56</sup> Ni Vapor	- -	6E+2 3E+3	3E-7 1E-6	9E-10 4E-9	- -	- -
29	Copper-60 <sup>2</sup>	D, all compounds except those given for W and Y St wall	3E+4 (3E+4)	9E+4 -	4E-5 -	1E-7 -	- 4E-4	- 4E-3
		W, sulfides, halides, and nitrates Y, oxides and hydroxides	- -	1E+5 1E+5	5E-5 4E-5	2E-7 1E-7	- -	- -
29	Copper-61	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	1E+4 - -	3E+4 4E+4 4E+4	1E-5 2E-5 1E-5	4E-8 6E-8 5E-8	2E-4 - -	2E-3 - -
29	Copper-64	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	1E+4 - -	3E+4 2E+4 2E+4	1E-5 1E-5 9E-6	4E-8 3E-8 3E-8	2E-4 - -	2E-3 - -
29	Copper-67	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	5E+3 - -	8E+3 5E+3 5E+3	3E-6 2E-6 2E-6	1E-8 7E-9 6E-9	6E-5 - -	6E-4 - -
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 <sup>2</sup>	Y, all compounds St wall	2E+4 (3E+4)	7E+4 -	3E-5 -	9E-8 -	- 3E-4	- 3E-3

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	DAC ( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 <sup>2</sup>	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65 <sup>2</sup>	D, all compounds except those given for W	5E+4 St wall (6E+4),	2E+5	7E-5	2E-7	-	-
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see <sup>65</sup> Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see <sup>65</sup> Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see <sup>65</sup> Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see <sup>65</sup> Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 <sup>2</sup>	D, see <sup>65</sup> Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>65</sup> Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 <sup>2</sup>	D, see <sup>65</sup> Ga	5E+4 St wall (7E+4)	2E+5	7E-5	2E-7	-	-
		W, see <sup>65</sup> Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see <sup>65</sup> Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see <sup>65</sup> Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see <sup>65</sup> Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see <sup>65</sup> Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 <sup>2</sup>	D, see <sup>66</sup> Ge	3E+4 St wait (4E+4)	9E+4	4E-5	1E-7	-	-
		W, see <sup>66</sup> Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see <sup>66</sup> Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see <sup>66</sup> Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see <sup>66</sup> Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see <sup>66</sup> Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see <sup>66</sup> Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see <sup>66</sup> Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75 <sup>2</sup>	D, see <sup>66</sup> Ge	4E+4 St wall (7E+4)	8E+4	3E-5	1E-7	-	-
		W, see <sup>66</sup> Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see <sup>66</sup> Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see <sup>66</sup> Ge	-	6E+3	2E-6	8E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
32	Germanium-78 <sup>2</sup>	D, see <sup>66</sup> Ge	2E+4 St wall (2E+4)	2E+4 -	9E-6 -	3E-8 -	- 3E-4	- 3E-3
		W, see <sup>66</sup> Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69 <sup>2</sup>	W, all compounds	3E+4 St wall (4E+4)	1E+5 -	5E-5 -	2E-7 -	- 6E-4	- 6E-3
33	Arsenic-70 <sup>2</sup>	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3 LLI wall (5E+3)	5E+3 -	2E-6 -	7E-9 -	- 6E-5	- 6E-4
33	Arsenic-78 <sup>2</sup>	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70 <sup>2</sup>	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m <sup>2</sup>	D, see <sup>70</sup> Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see <sup>70</sup> Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see <sup>70</sup> Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see <sup>70</sup> Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see <sup>70</sup> Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see <sup>70</sup> Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see <sup>70</sup> Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see <sup>70</sup> Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m <sup>2</sup>	D, see <sup>70</sup> Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see <sup>70</sup> Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81 <sup>2</sup>	D, see <sup>70</sup> Se	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
		W, see <sup>70</sup> Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 <sup>2</sup>	D, see <sup>70</sup> Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see <sup>70</sup> Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m <sup>2</sup>	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4 St wall (2E+4)	4E+4 -	2E-5 -	5E-8 -	- 3E-4	- 3E-3



## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation ALI	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			( $\mu\text{Ci}$ )	( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	( $\mu\text{Ci/ml}$ )
		W, Bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74 <sup>2</sup>	D, see <sup>74m</sup> Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
35	Bromine-75 <sup>2</sup>	W, see <sup>74m</sup> Br	-	8E+4	4E-5	1E-7	-	-
		D, see <sup>74m</sup> Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
35	Bromine-76	W, see <sup>74m</sup> Br	-	5E+4	2E-5	7E-8	-	-
		D, see <sup>74m</sup> Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see <sup>74m</sup> Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see <sup>74m</sup> Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see <sup>74m</sup> Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see <sup>74m</sup> Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see <sup>74m</sup> Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 <sup>2</sup>	D, see <sup>74m</sup> Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
35	Bromine-82	W, see <sup>74m</sup> Br	-	2E+5	9E-5	3E-7	-	-
		D, see <sup>74m</sup> Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see <sup>74m</sup> Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see <sup>74m</sup> Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
35	Bromine-84 <sup>2</sup>	W, see <sup>74m</sup> Br	-	6E+4	3E-5	9E-8	-	-
		D, see <sup>74m</sup> Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
36	Krypton-74 <sup>2</sup>	W, see <sup>74m</sup> Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-76	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
36	Krypton-77 <sup>2</sup>	Submersion <sup>1</sup>	-	-	9E-6	4E-8	-	-
36	Krypton-79	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
36	Krypton-81	Submersion <sup>1</sup>	-	-	2E-5	7E-8	-	-
36	Krypton-83m <sup>2</sup>	Submersion <sup>1</sup>	-	-	7E-4	3E-6	-	-
36	Krypton-85m	Submersion <sup>1</sup>	-	-	1E-2	5E-5	-	-
36	Krypton-85	Submersion <sup>1</sup>	-	-	2E-5	1E-7	-	-
36	Krypton-87 <sup>2</sup>	Submersion <sup>1</sup>	-	-	1E-4	7E-7	-	-
36	Krypton-88	Submersion <sup>1</sup>	-	-	5E-6	2E-8	-	-
		Submersion <sup>1</sup>	-	-	2E-6	9E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	( $\mu\text{Ci/ml}$ )
37	Rubidium-79 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5	5E-5	2E-7	-	-
37	Rubidium-81m <sup>2</sup>	D, all compounds	2E+5 St wall (3E+5)	3E+5	1E-4	5E-7	-	-
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium 82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88 <sup>2</sup>	D, all compounds	2E+4 St wall (3E+4)	6E+4	3E-5	9E-8	-	-
37	Rubidium-89 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5	6E-5	2E-7	-	-
38	Strontium-80 <sup>2</sup>	D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
38	Strontium-81 <sup>2</sup>	D, see <sup>80</sup> Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see <sup>80</sup> Sr	2E+4	8E+4	3E-5	1E-7	-	-
38	Strontium-82	D, see <sup>80</sup> Sr	3E+2 LLI wall (2E+2)	4E+2	2E-7	6E-10	-	-
		Y, see <sup>80</sup> Sr	2E+2	9E+1	4E-8	1E-10	-	-
38	Strontium-83	D, see <sup>80</sup> Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see <sup>80</sup> Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m <sup>2</sup>	D, see <sup>80</sup> Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see <sup>80</sup> Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see <sup>80</sup> Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see <sup>80</sup> Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see <sup>80</sup> Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see <sup>80</sup> Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see <sup>80</sup> Sr	6E+2 LLI wall (6E+2)	8E+2	4E-7	1E-9	-	-
		Y, see <sup>80</sup> Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see <sup>80</sup> Sr	3E+1 Bone surf (4E+1)	2E+1 Bone surf (2E+1)	8E-9	-	-	-
		Y, see <sup>80</sup> Sr	-	4E+0	2E-9	3E-11	5E-7	5E-6
38	Strontium-91	D, see <sup>80</sup> Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see <sup>80</sup> Sr	-	4E+3	1E-6	5E-9	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
38	Strontium-92	D, see <sup>80</sup> Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see <sup>80</sup> Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m <sup>2</sup>	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see <sup>86m</sup> Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see <sup>86m</sup> Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see <sup>86m</sup> Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see <sup>86m</sup> Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see <sup>86m</sup> Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see <sup>86m</sup> Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see <sup>86m</sup> Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see <sup>86m</sup> Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see <sup>86m</sup> Y	4E+2	7E+2	3E-7	9E-10	-	-
		LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see <sup>86m</sup> Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m <sup>2</sup>	W, see <sup>86m</sup> Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see <sup>86m</sup> Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see <sup>86m</sup> Y	5E+2	2E+2	7E-8	2E-10	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
		Y, see <sup>86m</sup> Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see <sup>86m</sup> Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see <sup>86m</sup> Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see <sup>86m</sup> Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see <sup>86m</sup> Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94 <sup>2</sup>	W, see <sup>86m</sup> Y	2E+4	8E+4	3E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		Y, see <sup>86m</sup> Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95 <sup>2</sup>	W, see <sup>86m</sup> Y	4E+4	2E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see <sup>86m</sup> Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see <sup>86</sup> Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see <sup>86</sup> Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see <sup>86</sup> Zr	-	3E+2	1E-7	4E-10	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
40	Zirconium-89	D, see $^{86}\text{Zr}$	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see $^{86}\text{Zr}$	-	2E+3	1E-6	3E-9	-	-
		Y, see $^{86}\text{Zr}$	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see $^{86}\text{Zr}$	1E+3	6E+0	3E-9	-	-	-
			Bone surf (3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4
		W, see $^{86}\text{Zr}$	-	2E+1	1E-8	-	-	-
			-	Bone surf (6E+1)	-	9E-11	-	-
		Y, see $^{86}\text{Zr}$	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	9E-11	-	-
40	Zirconium-95	D, see $^{86}\text{Zr}$	1E+3	1E+2	5E-8	-	2E-5	2E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
		W, see $^{86}\text{Zr}$	-	4E+2	2E-7	5E-10	-	-
		Y, see $^{86}\text{Zr}$	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see $^{86}\text{Zr}$	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see $^{86}\text{Zr}$	-	1E+3	6E-7	2E-9	-	-
		Y, see $^{86}\text{Zr}$	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88 <sup>2</sup>	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41	Niobium-89 <sup>2</sup> (66 min)	W, see $^{88}\text{Nb}$	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see $^{88}\text{Nb}$	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see $^{88}\text{Nb}$	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see $^{88}\text{Nb}$	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see $^{88}\text{Nb}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see $^{88}\text{Nb}$	9E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+4)	-	-	-	2E-4	2E-3
		Y, see $^{88}\text{Nb}$	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see $^{88}\text{Nb}$	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see $^{88}\text{Nb}$	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see $^{88}\text{Nb}$	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	9E-7	3E-9	-	-
41	Niobium-95	W, see $^{88}\text{Nb}$	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see $^{88}\text{Nb}$	-	1E+3	5E-7	2E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	DAC ( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	
41	Niobium-96	W, see $^{88}\text{Nb}$	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97 <sup>2</sup>	W, see $^{88}\text{Nb}$	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see $^{88}\text{Nb}$	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98 <sup>2</sup>	W, see $^{88}\text{Nb}$	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see $^{88}\text{Nb}$	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see $^{90}\text{Mo}$	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see $^{90}\text{Mo}$	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see $^{90}\text{Mo}$	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see $^{90}\text{Mo}$	2E+4	2E+2	8E-8	2E-10	-	-
42	Molybdenum-99	D, see $^{90}\text{Mo}$	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see $^{90}\text{Mo}$	1E+3	1E+3	6E-7	2E-9	-	-
42	Molybdenum-101 <sup>2</sup>	D, see $^{90}\text{Mo}$	4E+4	1E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see $^{90}\text{Mo}$	-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m <sup>2</sup>	D, All compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see $^{93\text{m}}\text{Tc}$	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see $^{93\text{m}}\text{Tc}$	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m <sup>2</sup>	D, see $^{93\text{m}}\text{Tc}$	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see $^{93\text{m}}\text{Tc}$	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see $^{93\text{m}}\text{Tc}$	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see $^{93\text{m}}\text{Tc}$	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see $^{93\text{m}}\text{Tc}$	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m <sup>2</sup>	D, see $^{93\text{m}}\text{Tc}$	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see $^{93\text{m}}\text{Tc}$	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see $^{93\text{m}}\text{Tc}$	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see $^{93\text{m}}\text{Tc}$	5E+3	7E+3	3E-6	-	6E-5	6E-4
		St wall (7E+3)	-	-	-	1E-8	-	-
		W, see $^{93\text{m}}\text{Tc}$	-	1E+3	5E-7	2E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
43	Technetium-97	D, see $^{93m}\text{Tc}$	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see $^{93m}\text{Tc}$	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see $^{93m}\text{Tc}$	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see $^{93m}\text{Tc}$	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see $^{93m}\text{Tc}$	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see $^{93m}\text{Tc}$	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see $^{93m}\text{Tc}$	4E+3	5E+3	2E-6	-	6E-5	6E-4
				St wall				
			-	(6E+3)	-	8E-9	-	-
		W, see $^{93m}\text{Tc}$	-	7E+2	3E-7	9E-10	-	-
43	Technetium-101 <sup>2</sup>	D, see $^{93m}\text{Tc}$	9E+4	3E+5	1E-4	5E-7	-	-
			St wall					
			(1E+5)	-	-	-	2E-3	2E-2
		W, see $^{93m}\text{Tc}$	-	4E+5	2E-4	5E-7	-	-
43	Technetium-104 <sup>2</sup>	D, see $^{93m}\text{Tc}$	2E+4	7E+4	3E-5	1E-7	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		W, see $^{93m}\text{Tc}$	-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94 <sup>2</sup>	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see $^{94}\text{Ru}$	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
		Y, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see $^{94}\text{Ru}$	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see $^{94}\text{Ru}$	-	1E+3	4E-7	1E-9	-	-
		Y, see $^{94}\text{Ru}$	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see $^{94}\text{Ru}$	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see $^{94}\text{Ru}$	-	1E+4	6E-6	2E-8	-	-
		Y, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see $^{94}\text{Ru}$	2E+2	9E+1	4E-8	1E-10	-	-
			LLI wall					
			(2E+2)	-	-	-	3E-6	3E-5
		W, see $^{94}\text{Ru}$	-	5E+1	2E-8	8E-11	-	-
		Y, see $^{94}\text{Ru}$	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see $^{99m}\text{Rh}$	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see $^{99m}\text{Rh}$	-	2E+3	9E-7	3E-9	-	-
		Y, see $^{99m}\text{Rh}$	-	2E+3	8E-7	3E-9	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3	Col. 1	Col.2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
45	Rhodium-100	D, see <sup>99m</sup> Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see <sup>99m</sup> Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see <sup>99m</sup> Rh	-	4E+ 3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see <sup>99m</sup> Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see <sup>99m</sup> Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see <sup>99m</sup> Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see <sup>99m</sup> Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see <sup>99m</sup> Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see <sup>99m</sup> Rh	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see <sup>99m</sup> Rh	1E+3	5E+2	2E-7	7E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		W, see <sup>99m</sup> Rh	-	4E+2	2E-7	5E-10	-	-
		Y, see <sup>99m</sup> Rh	-	1E+2	5E-8	2E-10	-	-
		D, see <sup>99m</sup> Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
45	Rhodium-102	W, see <sup>99m</sup> Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see <sup>99m</sup> Rh	-	6E+1	2E-8	8E-11	-	-
		D, see <sup>99m</sup> Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
45	Rhodium-103m <sup>2</sup>	W, see <sup>99m</sup> Rh	-	1E+6	5E-4	2E-6	-	-
		Y, see <sup>99m</sup> Rh	-	1E+6	5E-4	2E-6	-	-
		D, see <sup>99m</sup> Rh	4E+3	1E+4	5E-6	2E-8	-	-
45	Rhodium-105	LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
		W, see <sup>99m</sup> Rh	-	6E+3	3E-6	9E-9	-	-
		Y, see <sup>99m</sup> Rh	-	6E+3	2E-6	8E-9	-	-
		D, see <sup>99m</sup> Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see <sup>99m</sup> Rh	-	4E+4	2E-5	5E-8	-	-
45	Rhodium-106m	Y, see <sup>99m</sup> Rh	-	4E+4	1E-5	5E-8	-	-
		D, see <sup>99m</sup> Rh	7E+4	2E+5	1E-4	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
45	Rhodium-107 <sup>2</sup>	W, see <sup>99m</sup> Rh	-	3E+5	1E-4	4E-7	-	-
		Y, see <sup>99m</sup> Rh	-	3E+5	1E-4	3E-7	-	-
		D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
46	Palladium-100	W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
		D, see <sup>100</sup> Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
46	Palladium-101	W, see <sup>100</sup> Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see <sup>100</sup> Pd	-	3E+4	1E-5	4E-8	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col.2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
46	Palladium-103	D, see <sup>100</sup> Pd	6E+3	6E+3	3E-6	9E-9	-	-
			LLI wall (7E+3)	-	-	-	1E-4	1E-3
		W, see <sup>100</sup> Pd	-	4E+3	2E-6	6E-9	-	-
46	Palladium-107	Y, see <sup>100</sup> Pd	-	4E+3	1E-6	5E-9	-	-
		D, see <sup>100</sup> Pd	3E+4	2E+4	9E-6	-	-	-
			LLI wall (4E+4)	Kidneys (2E+4)	-	3E-8	5E-4	5E-3
46	Palladium-109	W, see <sup>100</sup> Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see <sup>100</sup> Pd	-	4E+2	2E-7	6E-10	-	-
		D, see <sup>100</sup> Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
46	Palladium-109	W, see <sup>100</sup> Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see <sup>100</sup> Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102 <sup>2</sup>	D, all compounds except those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
47	Silver-103 <sup>2</sup>	Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
		D, see <sup>102</sup> Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see <sup>102</sup> Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m <sup>2</sup>	Y, see <sup>102</sup> Ag	-	1E+5	5E-5	2E-7	-	-
		D, see <sup>102</sup> Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see <sup>102</sup> Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104 <sup>2</sup>	Y, see <sup>102</sup> Ag	-	1E+5	5E-5	2E-7	-	-
		D, see <sup>102</sup> Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see <sup>102</sup> Ag	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	Y, see <sup>102</sup> Ag	-	1E+5	6E-5	2E-7	-	-
		D, see <sup>102</sup> Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see <sup>102</sup> Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	Y, see <sup>102</sup> Ag	-	2E+3	7E-7	2E-9	-	-
		D, see <sup>102</sup> Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see <sup>102</sup> Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106 <sup>2</sup>	Y, see <sup>102</sup> Ag	-	9E+2	4E-7	1E-9	-	-
		D, see <sup>102</sup> Ag	6E+4	2E+5	8E-5	3E-7	-	-
			St Wall (6E+4)	-	-	-	9E-4	9E-3
47	Silver-108m	W, see <sup>102</sup> Ag	-	2E+5	9E-5	3E-7	-	-
		Y, see <sup>102</sup> Ag	-	2E+5	8E-5	3E-7	-	-
		D, see <sup>102</sup> Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
47	Silver-108m	W, see <sup>102</sup> Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see <sup>102</sup> Ag	-	2E+1	1E-8	3E-11	-	-



Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
47	Silver-110m	D, see $^{102}\text{Ag}$	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see $^{102}\text{Ag}$	-	2E+2	8E-8	3E-10	-	-
		Y, see $^{102}\text{Ag}$	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see $^{102}\text{Ag}$	9E+2	2E+3	6E-7	-	-	-
		LLI wall	(1E+3)	Liver (2E+3)	-	2E-9	2E-5	2E-4
		W, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	Y, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
		D, see $^{102}\text{Ag}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{102}\text{Ag}$	-	1E+4	4E-6	1E-8	-	-
47	Silver-115 <sup>2</sup>	Y, see $^{102}\text{Ag}$	-	9E+3	4E-6	1E-8	-	-
		D, see $^{102}\text{Ag}$	3E+4	9E+4	4E-5	1E-7	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
48	Cadmium-104 <sup>2</sup>	W, see $^{102}\text{Ag}$	-	9E+4	4E-5	1E-7	-	-
		Y, see $^{102}\text{Ag}$	-	8E+4	3E-5	1E-7	-	-
		D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
48	Cadmium-107	W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
		D, see $^{104}\text{Cd}$	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
48	Cadmium-109	W, see $^{104}\text{Cd}$	-	6E+4	2E-5	8E-8	-	-
		Y, see $^{104}\text{Cd}$	-	5E+4	2E-5	7E-8	-	-
		D, see $^{104}\text{Cd}$	3E+2	4E+1	1E-8	-	-	-
48	Cadmium-113m	Kidneys	(4E+2)	Kidneys (5E+1)	-	7E-11	6E-6	6E-5
		W, see $^{104}\text{Cd}$	-	1E+2	5E-8	2E-10	-	-
		Y, see $^{104}\text{Cd}$	-	1E+2	5E-8	2E-10	-	-
48	Cadmium-113	D, see $^{104}\text{Cd}$	2E+1	2E+0	1E-9	-	-	-
		Kidneys	(4E+1)	Kidneys (4E+0)	-	5E-12	5E-7	5E-6
		W, see $^{104}\text{Cd}$	-	8E+0	4E-9	-	-	-
48	Cadmium-113	Kidneys	(3E+1)	Kidneys (3E+0)	-	5E-12	4E-7	4E-6
		W, see $^{104}\text{Cd}$	-	8E+0	3E-9	-	-	-
		Y, see $^{104}\text{Cd}$	-	1E+1	6E-9	2E-11	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col.3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
48	Cadmium-115m	D, see $^{104}\text{Cd}$	3E+2	5E+1 Kidneys	2E-8	-	4E-6	4E-5
			-	(8E+1)	-	1E-10	-	-
		W, see $^{104}\text{Cd}$	-	1E+2	5E-8	2E-10	-	-
		Y, see $^{104}\text{Cd}$	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see $^{104}\text{Cd}$	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
		W, see $^{104}\text{Cd}$	-	1E+3	5E-7	2E-9	-	-
		Y, see $^{104}\text{Cd}$	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see $^{104}\text{Cd}$	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see $^{104}\text{Cd}$	-	2E+4	7E-6	2E-8	-	-
		Y, see $^{104}\text{Cd}$	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see $^{104}\text{Cd}$	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see $^{104}\text{Cd}$	-	2E+4	7E-6	2E-8	-	-
		Y, see $^{104}\text{Cd}$	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W W, oxides, hydroxides, halides, and nitrates	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
			-	6E+4	3E-5	9E-8	-	-
49	Indium-110 <sup>2</sup> (69.1 min)	D, see $^{109}\text{In}$	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see $^{109}\text{In}$	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see $^{109}\text{In}$	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see $^{109}\text{In}$	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see $^{109}\text{In}$	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see $^{109}\text{In}$	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 <sup>2</sup>	D, see $^{109}\text{In}$	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see $^{109}\text{In}$	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m <sup>2</sup>	D, see $^{109}\text{In}$	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see $^{109}\text{In}$	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see $^{109}\text{In}$	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		W, see $^{109}\text{In}$	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see $^{109}\text{In}$	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see $^{109}\text{In}$	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see $^{109}\text{In}$	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
		W, see $^{109}\text{In}$	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m <sup>2</sup>	D, see $^{109}\text{In}$	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see $^{109}\text{In}$	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m <sup>2</sup>	D, see $^{109}\text{In}$	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see $^{109}\text{In}$	-	4E+4	2E-5	6E-8	-	-
49	Indium-117 <sup>2</sup>	D, see $^{109}\text{In}$	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see $^{109}\text{In}$	-	2E+5	9E-5	3E-7	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col.2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
49	Indium-119m <sup>2</sup>	D, see <sup>109</sup> In	4E+4 St wall (5E+4)	1E+5	5E-5	2E-7	-	-
		W, see <sup>109</sup> In	-	1E+5	6E-5	2E-7	-	-
50	Tin-110	D, all compounds except those given for W	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	-	1E+4	5E-6	2E-8	-	-
50	Tin-111 <sup>2</sup>	D, see <sup>110</sup> Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
		W, see <sup>110</sup> Sn	-	3E+5	1E-4	4E-7	-	-
50	Tin-113	D, see <sup>110</sup> Sn	2E+3 LLI wall (2E+3)	1E+3	5E-7	2E-9	-	-
		W, see <sup>110</sup> Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-117m	D, see <sup>110</sup> Sn	2E+3 LLI wall (2E+3)	1E+3 Bone surf (2E+3)	5E-7	-	-	-
		W, see <sup>110</sup> Sn	-	1E+3	6E-7	2E-9	-	-
50	Tin-119m	D, see <sup>110</sup> Sn	3E+3 LLI wall (4E+3)	2E+3	1E-6	3E-9	-	-
		W, see <sup>110</sup> Sn	-	1E+3	4E-7	1E-9	-	-
50	Tin-121m	D, see <sup>110</sup> Sn	3E+3 LLI wall (4E+3)	9E+2	4E-7	1E-9	-	-
		W, see <sup>110</sup> Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-121	D, see <sup>110</sup> Sn	6E+3 LLI wall (6E+3)	2E+4	6E-6	2E-8	-	-
		W, see <sup>110</sup> Sn	-	1E+4	5E-6	2E-8	-	-
50	Tin-123m <sup>2</sup>	D, see <sup>110</sup> Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
		W, see <sup>110</sup> Sn	-	1E+5	6E-5	2E-7	-	-
50	Tin-123	D, see <sup>110</sup> Sn	5E+2 LLI wall (6E+2)	6E+2	3E-7	9E-10	-	-
		W, see <sup>110</sup> Sn	-	2E+2	7E-8	2E-10	-	-
50	Tin-125	D, see <sup>110</sup> Sn	4E+2 LLI wall (5E+2)	9E+2	4E-7	1E-9	-	-
		W, see <sup>110</sup> Sn	-	4E+2	1E-7	5E-10	-	-
50	Tin-126	D, see <sup>110</sup> Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
		W, see <sup>110</sup> Sn	-	7E+1	3E-8	9E-11	-	-
50	Tin-127	D, see <sup>110</sup> Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		W, see <sup>110</sup> Sn	-	2E+4	8E-6	3E-8	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
50	Tin-128 <sup>2</sup>	D, see <sup>110</sup> Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see <sup>110</sup> Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115 <sup>2</sup>	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m <sup>2</sup>	D, see <sup>115</sup> Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see <sup>115</sup> Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 <sup>2</sup>	D, see <sup>115</sup> Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see <sup>115</sup> Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see <sup>115</sup> Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see <sup>115</sup> Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see <sup>115</sup> Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see <sup>115</sup> Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see <sup>115</sup> Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>115</sup> Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120 <sup>2</sup> (16 min)	D, see <sup>115</sup> Sb	1E+5	4E+5	2E-4	6E-7	-	-
		St wall (2E+5)	-	-	-	-	2E-3	2E-2
		W, see <sup>115</sup> Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see <sup>115</sup> Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see <sup>115</sup> Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see <sup>115</sup> Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see <sup>115</sup> Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m <sup>2</sup>	D, see <sup>115</sup> Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see <sup>115</sup> Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see <sup>115</sup> Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see <sup>115</sup> Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see <sup>115</sup> Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see <sup>115</sup> Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m <sup>2</sup>	D, see <sup>115</sup> Sb	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see <sup>115</sup> Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see <sup>115</sup> Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see <sup>115</sup> Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see <sup>115</sup> Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see <sup>115</sup> Sb	7E+2	9E+2	4E-7	1E-9	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col.2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
51	Antimony-128 <sup>2</sup> (10.4 min)	D, see <sup>115</sup> Sb	8E+4 St wall (1E+5)	4E+5 - -	2E-4 - -	5E-7 - -	- 1E-3	- 1E-2
		W, see <sup>115</sup> Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see <sup>115</sup> Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see <sup>115</sup> Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see <sup>115</sup> Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see <sup>115</sup> Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130 <sup>2</sup>	D, see <sup>115</sup> Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see <sup>115</sup> Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131 <sup>2</sup>	D, see <sup>115</sup> Sb	1E+4 Thyroid (2E+4)	2E+4 Thyroid (4E+4)	1E-5 - -	- 6E-8	- 2E-4	- 2E-3
		W, see <sup>115</sup> Sb	- - -	2E+4 Thyroid (4E+4)	1E-5 - -	- 6E-8	- -	- -
52	Tellurium-116	D, all compounds except those given for W	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, oxides, hydroxides, and nitrates	-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see <sup>116</sup> Te	5E+2 Bone surf (7E+2)	2E+2 Bone surf (4E+2)	8E-8 - -	- 5E-10	- 1E-5	- 1E-4
		W, see <sup>116</sup> Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see <sup>116</sup> Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see <sup>116</sup> Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see <sup>116</sup> Te	6E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	9E-8 - -	- 8E-10	- 1E-5	- 1E-4
		W, see <sup>116</sup> Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see <sup>116</sup> Te	5E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	8E-8 - -	- 7E-10	- 2E-5	- 2E-4
		W, see <sup>116</sup> Te	- - -	4E+2 Bone surf (1E+3)	2E-7 - -	- 2E-9	- -	- -
52	Tellurium-125m	D, see <sup>116</sup> Te	1E+3 Bone surf (1E+3)	4E+2 Bone surf (1E+3)	2E-7 - -	- 1E-9	- 2E-5	- 2E-4
		W, see <sup>116</sup> Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see <sup>116</sup> Te	6E+2 - -	3E+2 Bone surf (4E+2)	1E-7 - -	- 6E-10	9E-6 -	9E-5 -
		W, see <sup>116</sup> Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see <sup>116</sup> Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see <sup>116</sup> Te	-	2E+4	7E-6	2E-8	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
52	Tellurium-129m	D, see $^{116}\text{Te}$	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see $^{116}\text{Te}$	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129 <sup>2</sup>	D, see $^{116}\text{Te}$	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see $^{116}\text{Te}$	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see $^{116}\text{Te}$	3E+2	4E+2	2E-7	-	-	-
		Thyroid	(6E+2)	Thyroid	-	2E-9	8E-6	8E-5
		W, see $^{116}\text{Te}$	-	4E+2	2E-7	-	-	-
		Thyroid	-	(9E+2)	-	1E-9	-	-
52	Tellurium-131 <sup>2</sup>	D, see $^{116}\text{Te}$	3E+3	5E+3	2E-6	-	-	-
		Thyroid	(6E+3)	Thyroid	-	2E-8	8E-5	8E-4
		W, see $^{116}\text{Te}$	-	5E+3	2E-6	-	-	-
		Thyroid	-	(1E+4)	-	2E-8	-	-
52	Tellurium-132	D, see $^{116}\text{Te}$	2E+2	2E+2	9E-8	-	-	-
		Thyroid	(7E+2)	Thyroid	-	1E-9	9E-6	9E-5
		W, see $^{116}\text{Te}$	-	2E+2	9E-8	-	-	-
		Thyroid	-	(6E+2)	-	9E-10	-	-
52	Tellurium-133m <sup>2</sup>	D, see $^{116}\text{Te}$	3E+3	5E+3	2E-6	-	-	-
		Thyroid	(6E+3)	Thyroid	-	2E-8	9E-5	9E-4
		W, see $^{116}\text{Te}$	-	5E+3	2E-6	-	-	-
		Thyroid	-	(1E+4)	-	2E-8	-	-
52	Tellurium-133 <sup>2</sup>	D, see $^{116}\text{Te}$	1E+4	2E+4	9E-6	-	-	-
		Thyroid	(3E+4)	Thyroid	-	8E-8	4E-4	4E-3
		W, see $^{116}\text{Te}$	-	2E+4	9E-6	-	-	-
		Thyroid	-	(6E+4)	-	8E-8	-	-
52	Tellurium-134 <sup>2</sup>	D, see $^{116}\text{Te}$	2E+4	2E+4	1E-5	-	-	-
		Thyroid	(2E+4)	Thyroid	-	7E-8	3E-4	3E-3
		W, see $^{116}\text{Te}$	-	2E+4	1E-5	-	-	-
		Thyroid	-	(5E+4)	-	7E-8	-	-
53	Iodine-120m <sup>2</sup>	D, all compounds	1E+4	2E+4	9E-6	3E-8	-	-
		Thyroid	(1E+4)	-	-	-	2E-4	2E-3
53	Iodine-120 <sup>2</sup>	D, all compounds	4E+3	9E+3	4E-6	-	-	-
		Thyroid	(8E+3)	Thyroid	-	2E-8	1E-4	1E-3

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6 - -	- 7E-8	- 4E-4	- 4E-3
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6 - -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8 - -	- 4E-10	- 2E-6	- 2E-5
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8 - -	- 3E-10	- 2E-6	- 2E-5
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8 - -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-128 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5 - -	5E-5 - -	2E-7 - -	- 8E-4	- 8E-3
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9 - -	- 4E-11	- 2E-7	- 2E-6
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7 - -	- 3E-9	- 2E-5	- 2E-4
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8 - -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-132m <sup>2</sup>	D, all compounds	4E+3 Thyroid (1E+4)	8E+3 Thyroid (2E+4)	4E-6 - -	- 3E-8	- 1E-4	- 1E-3
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6 - -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7 - -	- 1E-9	- 7E-6	- 7E-5
53	Iodine-134 <sup>2</sup>	D, all compounds	2E+4 Thyroid (3E+4)	5E+4 - -	2E-5 - -	6E-8 - -	- 4E-4	- 4E-3
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7 - -	- 6E-9	- 3E-5	- 3E-4
54	Xenon-120 <sup>2</sup>	Submersion <sup>1</sup>	-	-	1E-5	4E-8	-	-
54	Xenon-121 <sup>2</sup>	Submersion <sup>1</sup>	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion <sup>1</sup>	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion <sup>1</sup>	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion <sup>1</sup>	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion <sup>1</sup>	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion <sup>1</sup>	-	-	2E-4	9E-7	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
54	Xenon-131m	Submersion <sup>1</sup>	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion <sup>1</sup>	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion <sup>1</sup>	-	-	1E-4	5E-7	-	-
54	Xenon-135m <sup>2</sup>	Submersion <sup>1</sup>	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion <sup>1</sup>	-	-	1E-5	7E-8	-	-
54	Xenon-138 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
55	Cesium-125 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130 <sup>2</sup>	D, all compounds	6E+4	2E+5	8E-5	3E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5	1E+5	6E-5	2E-7	-	-
			St wall (1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m <sup>2</sup>	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 <sup>2</sup>	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
56	Barium-126 <sup>2</sup>	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m <sup>2</sup>	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
			St wall (5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 <sup>2</sup>	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
56	Barium-141 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 <sup>2</sup>	D, all compounds except those given for W, oxides and hydroxides	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
			-	2E+5	7E-5	2E-7	-	-



## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1	Col. 2	Col.3	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Oral Ingestion ALI ( $\mu\text{Ci}$ )	Inhalation ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
57	Lanthanum-132	D, see $^{131}\text{La}$	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see $^{131}\text{La}$	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see $^{131}\text{La}$	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see $^{131}\text{La}$	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see $^{131}\text{La}$	1E+4	6E+1	3E-8	-	2E-4	2E-3
		Liver	-	(7E+1)	-	1E-10	-	-
		W, see $^{131}\text{La}$	-	3E+2	1E-7	-	-	-
		Liver	-	(3E+2)	-	4E-10	-	-
57	Lanthanum-138	D, see $^{131}\text{La}$	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see $^{131}\text{La}$	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see $^{131}\text{La}$	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see $^{131}\text{La}$	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see $^{131}\text{La}$	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see $^{131}\text{La}$	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142 <sup>2</sup>	D, see $^{131}\text{La}$	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{131}\text{La}$	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143 <sup>2</sup>	D, see $^{131}\text{La}$	4E+4	1E+5	4E-5	1E-7	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
58	Cerium-134	W, see $^{131}\text{La}$	-	9E+4	4E-5	1E-7	-	-
		W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see $^{134}\text{Ce}$	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see $^{134}\text{Ce}$	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see $^{134}\text{Ce}$	2E+3	4E+3	2E-6	6E-9	-	-
		LLI wall	(2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{134}\text{Ce}$	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see $^{134}\text{Ce}$	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see $^{134}\text{Ce}$	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see $^{134}\text{Ce}$	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see $^{134}\text{Ce}$	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see $^{134}\text{Ce}$	2E+3	7E+2	3E-7	1E-9	-	-
		LLI wall	(2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{134}\text{Ce}$	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see $^{134}\text{Ce}$	1E+3	2E+3	8E-7	3E-9	-	-
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see $^{134}\text{Ce}$	-	2E+3	7E-7	2E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
58	Cerium-144	W, see $^{134}\text{Ce}$	2E+2 LLI wall (3E+2)	3E+1 -	1E-8 -	4E-11 -	- 3E-6	- 3E-5
		Y, see $^{134}\text{Ce}$	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 <sup>2</sup>	W, all compounds except those given for Y	5E+4 St wall (7E+4)	2E+5 -	1E-4 -	3E-7 -	- 1E-3	- 1E-2
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 <sup>2</sup>	W, see $^{136}\text{Pr}$	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see $^{136}\text{Pr}$	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see $^{136}\text{Pr}$	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see $^{136}\text{Pr}$	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m <sup>2</sup>	W, see $^{136}\text{Pr}$	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see $^{136}\text{Pr}$	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see $^{136}\text{Pr}$	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see $^{136}\text{Pr}$	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see $^{136}\text{Pr}$	9E+2 LLI wall (1E+3)	8E+2 -	3E-7 -	1E-9 -	- 2E-5	- 2E-4
		Y, see $^{136}\text{Pr}$	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 <sup>2</sup>	W, see $^{136}\text{Pr}$	3E+4 St wall (4E+4)	1E+5 -	5E-5 -	2E-7 -	- 6E-4	- 6E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see $^{136}\text{Pr}$	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see $^{136}\text{Pr}$	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147 <sup>2</sup>	W, see $^{136}\text{Pr}$	5E+4 St wall (8E+4)	2E+5 -	8E-5 -	3E-7 -	- 1E-3	- 1E-2
		Y, see $^{136}\text{Pr}$	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 <sup>2</sup>	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see $^{136}\text{Nd}$	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see $^{136}\text{Nd}$	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see $^{136}\text{Nd}$	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see $^{136}\text{Nd}$	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139 <sup>2</sup>	W, see $^{136}\text{Nd}$	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see $^{136}\text{Nd}$	-	3E+5	1E-4	4E-7	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col.3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
60	Neodymium-141	W, see <sup>136</sup> Nd	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see <sup>136</sup> Nd	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see <sup>136</sup> Nd	1E+3	9E+2	4E-7	1E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
60	Neodymium-149 <sup>2</sup>	Y, see <sup>136</sup> Nd	-	8E+2	4E-7	1E-9	-	-
		W, see <sup>136</sup> Nd	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
60	Neodymium-151 <sup>2</sup>	Y, see <sup>136</sup> Nd	-	2E+4	1E-5	3E-8	-	-
		W, see <sup>136</sup> Nd	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
61	Promethium-141 <sup>2</sup>	Y, see <sup>136</sup> Nd	-	2E+5	8E-5	3E-7	-	-
		W, all compounds except those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
61	Promethium-143	St wall (6E+4)	-	-	-	-	8E-4	8E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
61	Promethium-144	W, see <sup>141</sup> Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
		Y, see <sup>141</sup> Pm	-	7E+2	3E-7	1E-9	-	-
61	Promethium-145	W, see <sup>141</sup> Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		Y, see <sup>141</sup> Pm	-	1E+2	5E-8	2E-10	-	-
61	Promethium-146	W, see <sup>141</sup> Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
		Bone surf (2E+2)	-	-	-	3E-10	-	-
61	Promethium-147	Y, see <sup>141</sup> Pm	-	2E+2	8E-8	3E-10	-	-
		W, see <sup>141</sup> Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
61	Promethium-148m	Y see <sup>141</sup> Pm	-	4E+1	2E-8	6E-11	-	-
		W see <sup>141</sup> Pm	4E+3	1E+2	5E-8	-	-	-
61	Promethium-148	LLI wall (5E+3)	-	1E+2	6E-8	2E-10	-	-
		Bone surf (2E+2)	-	-	-	3E-10	7E-5	7E-4
61	Promethium-148m	Y, see <sup>141</sup> Pm	-	1E+2	6E-8	2E-10	-	-
		W, see <sup>141</sup> Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
61	Promethium-150	Y, see <sup>141</sup> Pm	-	3E+2	1E-7	5E-10	-	-
		W, see <sup>141</sup> Pm	4E+2	5E+2	2E-7	8E-10	-	-
61	Promethium-151	LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see <sup>141</sup> Pm	-	5E+2	2E-7	7E-10	-	-
62	Samarium-141m <sup>2</sup>	LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see <sup>141</sup> Pm	-	2E+3	8E-7	2E-9	-	-
61	Promethium-151	W, see <sup>141</sup> Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see <sup>141</sup> Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see <sup>141</sup> Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see <sup>141</sup> Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m <sup>2</sup>	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
62	Samarium-141 <sup>2</sup>	W, all compounds	5E+4 St wall (6E+4)	2E+5 -	8E-5 -	2E-7 -	- 8E-4	- 8E-3
62	Samarium-142 <sup>2</sup>	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1 Bone surf (3E+1)	4E2 Bone surf (6E-2)	1E-11 -	- 9E-14	- 3E-7	- 3E-6
62	Samarium-147	W, all compounds	2E+1 Bone surf (3E+1)	4E2 Bone surf (7E-2)	2E-11 -	- 1E-13	- 4E-7	- 4E-6
62	Samarium-151	W, all compounds	1E+4 LLI wall (1E+4)	1E+2 Bone surf (2E+2)	4E-8 -	- 2E-10	- 2E-4	- 2E-3
62	Samarium-153	W, all compounds	2E+3 LLI wall (2E+3)	3E+3 -	1E-6 -	4E-9 -	- 3E-5	- 3E-4
62	Samarium-155 <sup>2</sup>	W, all compounds	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3 Bone surf -	9E+1 (1E+2)	4E-8 -	- 2E-10	5E-5 -	5E-4 -
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 <sup>2</sup>	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 <sup>2</sup>	D, all compounds except those given for W	5E+4 St wall (5E+4)	2E+5 -	6E-5 -	2E-7 -	- 6E-4	- 6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see <sup>145</sup> Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see <sup>145</sup> Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see <sup>145</sup> Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see <sup>145</sup> Gd	-	4E+3	1E-6	5E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
64	Gadolinium-148	D, see $^{145}\text{Gd}$	1E+1 Bone surf (2E+1)	8E+3 Bone surf (2E+2)	3E-12 - -	- 2E-14	- 3E-7	- 3E-6
		W, see $^{145}\text{Gd}$	- Bone surf (6E-2)	3E-2 Bone surf (6E-2)	1E-11 - -	- 8E-14	- -	- -
64	Gadolinium-149	D, see $^{145}\text{Gd}$	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see $^{145}\text{Gd}$	-	2E+3	1E-6	3E-9	-	-
64	Gadolinium-151	D, see $^{145}\text{Gd}$	6E+3 Bone surf (6E+2)	4E+2 Bone surf (6E+2)	2E-7 - -	- 9E-10	9E-5 -	9E-4 -
		W, see $^{145}\text{Gd}$	-	1E+3	5E-7	2E-9	-	-
64	Gadolinium-152	D, see $^{145}\text{Gd}$	2E+1 Bone surf (3E+1)	1E-2 Bone surf (2E-2)	4E-12 - -	- 3E-14	- 4E-7	- 4E-6
		W, see $^{145}\text{Gd}$	- Bone surf (8E-2)	4E-2 Bone surf (8E-2)	2E-11 - -	- 1E-13	- -	- -
64	Gadolinium-153	D, see $^{145}\text{Gd}$	5E+3 Bone surf (2E+2)	1E+2 Bone surf (2E+2)	6E-8 - -	- 3E-10	6E-5 -	6E-4 -
		W, see $^{145}\text{Gd}$	-	6E+2	2E-7	8E-10	-	-
64	Gadolinium-159	D, see $^{145}\text{Gd}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{145}\text{Gd}$	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147 <sup>2</sup>	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4 LLI wall (5E+4)	3E+2 Bone surf (6E+2)	1E-7 - -	- 8E-10	- 7E-4	- 7E-3
65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
65	Terbium-161	W, all compounds	2E+3 LLI wall (2E+3)	2E+3 - -	7E-7 - -	2E-9 - -	- 3E-5	- 3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
66	Dysprosium-166	W, all compounds	6E+2 LLI wall (8E+2)	7E+2 -	3E-7 -	1E-9 -	- 1E-5	- 1E-4
67	Holmium-155 <sup>2</sup>	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 <sup>2</sup>	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 <sup>2</sup>	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m <sup>2</sup>	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 <sup>2</sup>	W, all compounds	5E+5 St wall (8E+5)	2E+6 -	1E-3 -	3E-6 -	- 1E-2	- 1E-1
67	Holmium-164m <sup>2</sup>	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 <sup>2</sup>	W, all compounds	2E+5 St wall (2E+5)	6E+5 -	3E-4 -	9E-7 -	- 3E-3	- 3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2 LLI wall (9E+2)	2E+3 -	7E-7 -	2E-9 -	- 1E-5	- 1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3 LLI wall (4E+3)	3E+3 -	1E-6 -	4E-9 -	- 5E-5	- 5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3 LLI wall (E+3)	1E+3 -	6E-7 -	2E-9 -	- 2E-5	- 2E-4
69	Thulium-162 <sup>2</sup>	W, all compounds	7E+4 St wall (7E+4)	3E+5 -	1E-4 -	4E-7 -	- 1E-3	- 1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3 LLI wall (2E+3)	2E+3 -	8E-7 -	3E-9 -	- 3E-5	- 3E-4
69	Thulium-170	W, all compounds	8E+2 LLI wall (1E+3)	2E+2 -	9E-8 -	3E-10 -	- 1E-5	- 1E-4
69	Thulium-171	W, all compounds	1E+4 LLI wall (1E+4)	3E+2 (6E+2)	1E-7 -	- 8E-10	- 2E-4	- 2E-3
69	Thulium-172	W, all compounds	7E+2 LLI wall (8E+2)	1E+3 -	5E-7 -	2E-9 -	- 1E-5	- 1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 <sup>2</sup>	W, all compounds	7E+4 St wall (9E+4)	3E+5 -	1E-4 -	4E-7 -	- 1E-3	- 1E-2

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col.2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	(μCi/ml)
70	Ytterbium-162 <sup>2</sup>	W, all compounds except those given for Y	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
		Y, oxides, hydroxides, and fluorides	-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see <sup>162</sup> Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see <sup>162</sup> Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167 <sup>2</sup>	W, see <sup>162</sup> Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see <sup>162</sup> Yb	-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see <sup>162</sup> Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see <sup>162</sup> Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see <sup>162</sup> Yb	3E+3	4E+3	1E-6	5E-9	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		Y, see <sup>162</sup> Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 <sup>2</sup>	W, see <sup>162</sup> Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see <sup>162</sup> Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178 <sup>2</sup>	W, see <sup>162</sup> Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see <sup>162</sup> Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see <sup>169</sup> Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see <sup>169</sup> Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see <sup>169</sup> Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see <sup>169</sup> Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see <sup>169</sup> Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see <sup>169</sup> Lu	-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see <sup>169</sup> Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
		Bone surf (5E+2)	-	-	-	6E-10	-	-
		Y, see <sup>169</sup> Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see <sup>169</sup> Lu	2E+3	2E+2	1E-7	-	-	-
		LLI wall (3E+3)	-	Bone surf (3E+2)	-	5E-10	4E-5	4E-4
		Y, see <sup>169</sup> Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see <sup>169</sup> Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
		Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see <sup>169</sup> Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see <sup>169</sup> Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see <sup>169</sup> Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see <sup>169</sup> Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
		Bone surf (1E+1)	-	-	-	2E-11	-	-
		Y, see <sup>169</sup> Lu	-	8E+0	3E-9	1E-1	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu$ Ci)	Col. 2 Inhalation ALI ( $\mu$ Ci)	Col.3 DAC ( $\mu$ Ci/ml)	Col. 1 Air ( $\mu$ Ci/ml)	Col.2 Water ( $\mu$ Ci/ml)	Monthly Average Concentration ( $\mu$ Ci/ml)
71	Lutetium-177m	W, see $^{169}\text{Lu}$	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
		Y, see $^{169}\text{Lu}$	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see $^{169}\text{Lu}$	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see $^{169}\text{Lu}$	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m <sup>2</sup>	W, see $^{169}\text{Lu}$	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see $^{169}\text{Lu}$	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 <sup>2</sup>	W, see $^{169}\text{Lu}$	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see $^{169}\text{Lu}$	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see $^{169}\text{Lu}$	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see $^{169}\text{Lu}$	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W W, oxides, hydroxides, carbides, and nitrates	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
			-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see $^{170}\text{Hf}$	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		W, see $^{170}\text{Hf}$	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see $^{170}\text{Hf}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see $^{170}\text{Hf}$	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see $^{170}\text{Hf}$	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf				
			-	(1E+3)	-	1E-9	-	-
		W, see $^{170}\text{Hf}$	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m <sup>2</sup>	D, see $^{170}\text{Hf}$	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see $^{170}\text{Hf}$	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see $^{170}\text{Hf}$	3E+2	1E+0	5E-10	-	3E-6	3E-5
				Bone surf				
			-	(2E+0)	-	3E-12	-	-
		W, see $^{170}\text{Hf}$	-	5E+0	2E-9	-	-	-
				Bone surf				
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see $^{170}\text{Hf}$	1E+3	3E+2	1E-7	-	1E-5	1E-4
				Bone surf				
			-	(6E+2)	-	8E-10	-	-
		W, see $^{170}\text{Hf}$	-	6E+2	3E-7	8E-10	-	-



## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu$ Ci)	Col. 2 Inhalation ALI ( $\mu$ Ci)	Col.3 DAC ( $\mu$ Ci/ml)	Col. 1 Air ( $\mu$ Ci/ml)	Col.2 Water ( $\mu$ Ci/ml)	Monthly Average Concentration ( $\mu$ Ci/ml)
72	Hafnium-180m	D, see $^{170}\text{Hf}$	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{170}\text{Hf}$	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see $^{170}\text{Hf}$	1E+3	2E+2	7E-8	-	2E-5	2E-4
				Bone surf				
			-	(4E+2)	-	6E-10	-	-
		W, see $^{170}\text{Hf}$	-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m <sup>2</sup>	D, see $^{170}\text{Hf}$	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see $^{170}\text{Hf}$	-	1E+5	6E-5	2E-7	-	-
72	Hafnium-182	D, see $^{170}\text{Hf}$	2E+2	8E-1	3E-10	-	-	-
			Bone surf	Bone surf				
			(4E+2)	(2E+0)	-	2E-12	5E-6	5E-5
		W, see $^{170}\text{Hf}$	-	3E+0	1E-9	-	-	-
				Bone surf				
			-	(7E+0)	-	1E-11	-	-
72	Hafnium-183 <sup>2</sup>	D, see $^{170}\text{Hf}$	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see $^{170}\text{Hf}$	-	6E+4	2E-5	8E-8	-	-
72	Hafnium-184	D, see $^{170}\text{Hf}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see $^{170}\text{Hf}$	-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172 <sup>2</sup>	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see $^{172}\text{Ta}$	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see $^{172}\text{Ta}$	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174 <sup>2</sup>	W, see $^{172}\text{Ta}$	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see $^{172}\text{Ta}$	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see $^{172}\text{Ta}$	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see $^{172}\text{Ta}$	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see $^{172}\text{Ta}$	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see $^{172}\text{Ta}$	-	1E+4	5E-6	2E-8	-	-
73	Tantalum-177	W, see $^{172}\text{Ta}$	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see $^{172}\text{Ta}$	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see $^{172}\text{Ta}$	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see $^{172}\text{Ta}$	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see $^{172}\text{Ta}$	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see $^{172}\text{Ta}$	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see $^{172}\text{Ta}$	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see $^{172}\text{Ta}$	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see $^{172}\text{Ta}$	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see $^{172}\text{Ta}$	-	2E+1	1E-8	3E-11	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
73	Tantalum-182m <sup>2</sup>	W, see <sup>172</sup> Ta	2E+5 St wall (2E+5)	5E+5 - -	2E-4 - -	8E-7 - -	- 3E-3	- 3E-2
		Y, see <sup>172</sup> Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see <sup>172</sup> Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see <sup>172</sup> Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see <sup>172</sup> Ta	9E+2 LLI wall (1E+3)	1E+3 - -	5E-7 - -	2E-9 - -	- 2E-5	- 2E-4
		Y, see <sup>172</sup> Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see <sup>172</sup> Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see <sup>172</sup> Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185 <sup>2</sup>	W, see <sup>172</sup> Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see <sup>172</sup> Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186 <sup>2</sup>	W, see <sup>172</sup> Ta	5E+4 St wall (7E+4)	2E+5 - -	1E-4 - -	3E-7 - -	- 1E-3	- 1E-2
		Y, see <sup>172</sup> Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 <sup>2</sup>	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3 LLI wall (3E+3)	7E+3 - -	3E-6 - -	9E-9 - -	- 4E-5	- 4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2 LLI wall (5E+2)	1E+3 - -	5E-7 - -	2E-9 - -	- 7E-6	- 7E-5
75	Rhenium-177 <sup>2</sup>	D, all compounds except those given for W	9E+4 St wall (1E+5)	3E+5 - -	1E-4 - -	4E-7 - -	- 2E-3	- 2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 <sup>2</sup>	D, see <sup>177</sup> Re	7E+4 St wall (1E+5)	3E+5 - -	1E-4 - -	4E-7 - -	- 1E-3	- 1E-2
		W, see <sup>177</sup> Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see <sup>177</sup> Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see <sup>177</sup> Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182	D, see <sup>177</sup> Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
	(12.7 h)	W, see <sup>177</sup> Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182	D, see <sup>177</sup> Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
	(64.0 h)	W, see <sup>177</sup> Re	-	2E+3	9E-7	3E-9	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3	Col. 1	Col. 2	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
75	Rhenium-184m	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see <sup>177</sup> Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see <sup>177</sup> Re	1E+3	2E+3	7E-7	-	-	-
		St wall	(2E+3)	(2E+3)	-	3E-9	2E-5	2E-4
		W, see <sup>177</sup> Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see <sup>177</sup> Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
		St wall	-	(9E+5)	-	1E-6	-	-
		W, see <sup>177</sup> Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m <sup>2</sup>	D, see <sup>177</sup> Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see <sup>177</sup> Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see <sup>177</sup> Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see <sup>177</sup> Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see <sup>177</sup> Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 <sup>2</sup>	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 <sup>2</sup>	D, see <sup>180</sup> Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>180</sup> Os	-	5E+4	2E-5	6E-8	-	-
		Y, see <sup>180</sup> Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see <sup>180</sup> Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see <sup>180</sup> Os	-	4E+3	2E-6	6E-9	-	-
		Y, see <sup>180</sup> Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see <sup>180</sup> Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see <sup>180</sup> Os	-	8E+2	3E-7	1E-9	-	-
		Y, see <sup>180</sup> Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see <sup>180</sup> Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see <sup>180</sup> Os	-	2E+5	9E-5	3E-7	-	-
		Y, see <sup>180</sup> Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see <sup>180</sup> Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see <sup>180</sup> Os	-	2E+4	8E-6	3E-8	-	-
		Y, see <sup>180</sup> Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see <sup>180</sup> Os	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall	(3E+3)	-	-	-	3E-5	3E-4
		W, see <sup>180</sup> Os	-	2E+3	7E-7	2E-9	-	-
		Y, see <sup>180</sup> Os	-	1E+3	6E-7	2E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col.3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col.2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
76	Osmium-193	D, see $^{180}\text{Os}$	2E+3	5E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	-	2E-5	2E-4
		W, see $^{180}\text{Os}$	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	Y, see $^{180}\text{Os}$	-	3E+3	1E-6	4E-9	-	-
		D, see $^{180}\text{Os}$	4E+2	4E+1	2E-8	6E-11	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
77	Iridium-182 <sup>2</sup>	W, see $^{180}\text{Os}$	-	6E+1	2E-8	8E-11	-	-
		Y, see $^{180}\text{Os}$	-	8E+0	3E-9	1E-11	-	-
		D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
77	Iridium-184	St wall (4E+4)	-	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-185	D, see $^{182}\text{Ir}$	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	5E-8	-	-
		Y, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
77	Iridium-186	D, see $^{182}\text{Ir}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see $^{182}\text{Ir}$	-	1E+4	5E-6	2E-8	-	-
		Y, see $^{182}\text{Ir}$	-	1E+4	4E-6	1E-8	-	-
77	Iridium-187	D, see $^{182}\text{Ir}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see $^{182}\text{Ir}$	-	6E+3	3E-6	9E-9	-	-
		Y, see $^{182}\text{Ir}$	-	6E+3	2E-6	8E-9	-	-
77	Iridium-188	D, see $^{182}\text{Ir}$	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
		Y, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
77	Iridium-189	D, see $^{182}\text{Ir}$	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see $^{182}\text{Ir}$	-	4E+3	1E-6	5E-9	-	-
		Y, see $^{182}\text{Ir}$	-	3E+3	1E-6	5E-9	-	-
77	Iridium-190m <sup>2</sup>	D, see $^{182}\text{Ir}$	5E+3	5E+3	2E-6	7E-9	-	-
		LLI wall (5E+3)	-	-	-	-	7E-5	7E-4
		W, see $^{182}\text{Ir}$	-	4E+3	2E-6	5E-9	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	4E+3	1E-6	5E-9	-	-
		D, see $^{182}\text{Ir}$	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see $^{182}\text{Ir}$	-	2E+5	9E-5	3E-7	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	2E+5	8E-5	3E-7	-	-
		D, see $^{182}\text{Ir}$	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	1E+3	4E-7	1E-9	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	9E+2	4E-7	1E-9	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
77	Iridium-192m	D, see $^{182}\text{Ir}$	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see $^{182}\text{Ir}$	-	2E+2	9E-8	3E-10	-	-
		Y, see $^{182}\text{Ir}$	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see $^{182}\text{Ir}$	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	4E+2	2E-7	6E-10	-	-
		Y, see $^{182}\text{Ir}$	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see $^{182}\text{Ir}$	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see $^{182}\text{Ir}$	-	2E+2	7E-8	2E-10	-	-
		Y, see $^{182}\text{Ir}$	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see $^{182}\text{Ir}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	2E+3	9E-7	3E-9	-	-
		Y, see $^{182}\text{Ir}$	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see $^{182}\text{Ir}$	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
		Y, see $^{182}\text{Ir}$	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see $^{182}\text{Ir}$	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see $^{182}\text{Ir}$	-	5E+4	2E-5	7E-8	-	-
		Y, see $^{182}\text{Ir}$	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
78	Platinum-193	D, all compounds	LLI wall (3E+4)	-	-	-	4E-5	4E-4
			4E+4	2E+4	1E-5	3E-8	-	-
			LLI wall (5E+4)	-	-	-	6E-4	6E-3
78	Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
78	Platinum-197m <sup>2</sup>	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see $^{193}\text{Au}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{193}\text{Au}$	-	5E+3	2E-6	8E-9	-	-
		Y, see $^{193}\text{Au}$	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D see $^{193}\text{Au}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W see $^{193}\text{Au}$	-	1E+3	6E-7	2E-9	-	-
		Y see $^{193}\text{Au}$	-	4E+2	2E-7	6E-10	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
79	Gold-198m	D see $^{193}\text{Au}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W see $^{193}\text{Au}$	-	1E+3	5E-7	2E-9	-	-
		Y see $^{193}\text{Au}$	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D see $^{193}\text{Au}$	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W see $^{193}\text{Au}$	-	2E+3	8E-7	3E-9	-	-
		Y see $^{193}\text{Au}$	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D see $^{193}\text{Au}$	3E+3	9E+3	4E-6	1E-8	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
		W, see $^{193}\text{Au}$	-	4E+3	2E-6	6E-9	-	-
79	Gold-200m	Y, see $^{193}\text{Au}$	-	4E+3	2E-6	5E-9	-	-
		D, see $^{193}\text{Au}$	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see $^{193}\text{Au}$	-	3E+3	1E-6	4E-9	-	-
79	Gold-200 <sup>2</sup>	Y, see $^{193}\text{Au}$	-	2E+4	1E-6	3E-9	-	-
		D, see $^{193}\text{Au}$	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see $^{193}\text{Au}$	-	8E+4	3E-5	1E-7	-	-
79	Gold-201 <sup>2</sup>	Y, see $^{193}\text{Au}$	-	7E+4	3E-5	1E-7	-	-
		D, see $^{193}\text{Au}$	7E+4	2E+5	9E-5	3E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
80	Mercury-193m	W, see $^{193}\text{Au}$	-	2E+5	1E-4	3E-7	-	-
		Y, see $^{193}\text{Au}$	-	2E+5	9E-5	3E-7	-	-
		Vapor	-	8E+3	4E-6	1E-8	-	-
80	Mercury-193	Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-193	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see $^{193\text{m}}\text{Hg}$	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
80	Mercury-194	W, see $^{193\text{m}}\text{Hg}$	-	4E+4	2E-5	6E-8	-	-
		Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
80	Mercury-195m	D, see $^{193\text{m}}\text{Hg}$	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see $^{193\text{m}}\text{Hg}$	-	1E+2	5E-8	2E-10	-	-
		Vapor	-	4E+3	2E-6	6E-9	-	-
80	Mercury-195	Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see $^{193\text{m}}\text{Hg}$	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see $^{193\text{m}}\text{Hg}$	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see $^{193\text{m}}\text{Hg}$	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see $^{193\text{m}}\text{Hg}$	-	3E+4	1E-5	5E-8	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	( $\mu\text{Ci/ml}$ )
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see $^{193\text{m}}\text{Hg}$	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{193\text{m}}\text{Hg}$	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see $^{193\text{m}}\text{Hg}$	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see $^{193\text{m}}\text{Hg}$	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m <sup>2</sup>	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		St wall (1E+5)	-	-	-	-	1E-3	1E-2
		D, see $^{193\text{m}}\text{Hg}$	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
80	Mercury-203	W, see $^{193\text{m}}\text{Hg}$	-	2E+5	7E-5	2E-7	-	-
		Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see $^{193\text{m}}\text{Hg}$	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
81	Thallium-194m <sup>2</sup>	W, see $^{193\text{m}}\text{Hg}$	-	1E+3	5E-7	2E-9	-	-
		D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
		St wall (7E+4)	-	-	-	-	1E-3	1E-2
		D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
81	Thallium-194 <sup>2</sup>	St wall (3E+5)	-	-	-	-	4E-3	4E-2
		D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
		D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
		D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198m <sup>2</sup>	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-198	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-199	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-200	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-201	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-202	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
81	Thallium-204	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-195m <sup>2</sup>	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-198	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-199 <sup>2</sup>	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-200	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-201	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-202	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-203	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-205	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-209	D, all compounds	6E1	2E1	1E-10	-	-	-
82	Lead-210	D, all compounds	Bone surf (1E+0)	Bone surf (4E-1)	-	6E-13	1E-8	1E-7
		D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3
		D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3
		D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3
82	Lead-211 <sup>2</sup>	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu$ Ci)	Col. 2 Inhalation ALI ( $\mu$ Ci)	Col. 3 DAC ( $\mu$ Ci/ml)	Col. 1 Air ( $\mu$ Ci/ml)	Col. 2 Water ( $\mu$ Ci/ml)	Monthly Average Concentration ( $\mu$ Ci/ml)
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
		Bone surf (1E+2)		-	-	-	2E-6	2E-5
82	Lead-214 <sup>2</sup>	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 <sup>2</sup>	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 <sup>2</sup>	D, see <sup>200</sup> Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see <sup>200</sup> Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 <sup>2</sup>	D, see <sup>200</sup> Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>200</sup> Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see <sup>200</sup> Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see <sup>200</sup> Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see <sup>200</sup> Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see <sup>200</sup> Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see <sup>200</sup> Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see <sup>200</sup> Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see <sup>200</sup> Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see <sup>200</sup> Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see <sup>200</sup> Bi	4E+1	5E+0	2E-9	-	-	-
		Kidneys (6E+1)		Kidneys (6E+0)	-	9E-12	8E-7	8E-6
		W, see <sup>200</sup> Bi	-	7E-1	3E-10	9E-13		
83	Bismuth-210	D, see <sup>200</sup> Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
		Kidneys (4E+2)			-	5E-10	-	-
		W, see <sup>200</sup> Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212 <sup>2</sup>	D, see <sup>200</sup> Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see <sup>200</sup> Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213 <sup>2</sup>	D, see <sup>200</sup> Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see <sup>200</sup> Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214 <sup>2</sup>	D, see <sup>200</sup> Bi	2E+4	8E+2	3E-7	1E-9	-	-
		St wall (2E+4)		-	-	-	3E-4	3E-3
		W, see <sup>200</sup> Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203 <sup>2</sup>	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205 <sup>2</sup>	D, see <sup>203</sup> Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see <sup>203</sup> Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see <sup>203</sup> Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see <sup>203</sup> Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see <sup>203</sup> Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see <sup>203</sup> Po	-	6E-1	3E-10	9E-13	-	-



Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)
85	Astatine-207 <sup>2</sup>	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
				(or 12 working level months)		(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
				(or 4 working level months)		(or 0.33 working level)		
87	Francium-222 <sup>2</sup>	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 <sup>2</sup>	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 <sup>2</sup>	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see <sup>224</sup> Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see <sup>224</sup> Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see <sup>224</sup> Ac	-	6E-1	3E-10	9E-13	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
89	Actinium-226	D, see $^{224}\text{Ac}$	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
			-	5E+0	2E-9	7E-12	-	-
89	Actinium-227	D, see $^{224}\text{Ac}$	-	5E+0	2E-9	6E-12	-	-
			2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
89	Actinium-228	D, see $^{224}\text{Ac}$	-	2E-3	7E-13	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
			-	4E-3	2E-12	6E-15	-	-
90	Thorium-226 <sup>2</sup>	W, all compounds except those given for Y	2E+3	9E+0	4E-9	-	3E-5	3E-4
			-	Bone surf (2E+1)	-	2E-11	-	-
			-	4E+1	2E-8	-	-	-
90	Thorium-227	W, see $^{226}\text{Th}$	-	Bone surf (6E+1)	-	8E-11	-	-
			-	4E+1	2E-8	6E-11	-	-
			5E+3	2E+2	6E-8	2E-10	-	-
90	Thorium-228	W, see $^{226}\text{Th}$	St wall (5E+3)	-	-	-	7E-5	7E-4
			-	1E+2	6E-8	2E-10	-	-
			-	1E+2	6E-8	2E-10	-	-
90	Thorium-229	W, see $^{226}\text{Th}$	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
			-	3E-1	1E-10	5E-13	-	-
			6E+0	1E-2	4E-12	-	-	-
90	Thorium-230	W, see $^{226}\text{Th}$	Bone surf (1E+1)	Bone surf (2E-2)	-	3E-14	2E-7	2E-6
			-	2E-2	7E-12	2E-14	-	-
			6E-1	9E-4	4E-13	-	-	-
90	Thorium-231	W, see $^{226}\text{Th}$	Bone surf (1E+0)	Bone surf (2E-3)	-	3E-15	2E-8	2E-7
			-	2E-3	1E-12	-	-	-
			-	Bone surf (3E-3)	-	4E-15-	-	-
90	Thorium-231	W, see $^{226}\text{Th}$	4E+0	6E-3	3E-12	-	-	-
			Bone surf (9E+0)	Bone surf (2E-2)	-	2E-14	1E-6	-
			-	2E-2	6E-12	-	-	-
90	Thorium-231	W, see $^{228}\text{Th}$	-	Bone surf (2E-2)	-	3E-14-	-	-
			4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
			-	6E+3	3E-6	9E-9-	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu$ Ci)	Col. 2 Inhalation ALI ( $\mu$ Ci)	Col.3 DAC ( $\mu$ Ci/ml)	Col. 1 Air ( $\mu$ Ci/ml)	Col.2 Water ( $\mu$ Ci/ml)	Monthly Average Concentration ( $\mu$ Ci/ml)
90	Thorium-232	W, see $^{228}\text{Th}$	7E-1 Bone surf (2E+0)	1E-3 Bone surf (3E-3)	5E-13 -	- 4E-15	- 3E-8	- 3E-7
		Y, see $^{228}\text{Th}$	-	3E-3 Bone surf (4E-3)	1E-12 -	- 6E-15	- -	- -
90	Thorium-234	W, see $^{228}\text{Th}$	3E+2 LLI wall (4E+2)	2E+2 -	8E-8 -	3E-10 -	- 5E-6	- 5E-5
		Y, see $^{228}\text{Th}$	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227 <sup>2</sup>	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see $^{227}\text{Pa}$	1E+3	1E+1	5E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		Y, see $^{227}\text{Pa}$	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see $^{227}\text{Pa}$	6E+2 Bone surf (9E+2)	5E+0 -	2E-9 -	7E-12 -	- 1E-5	- 1E-4
		Y, see $^{227}\text{Pa}$	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see $^{227}\text{Pa}$	2E-1 Bone surf (5E-1)	2E-3 Bone surf (4E-3)	6E-13 -	- 6E-15	- 6E-9	- 6E-8
		Y, see $^{227}\text{Pa}$	-	4E-3 Bone surf (6E-3)	2E-12 -	- 8E-15	- -	- -
91	Protactinium-232	W, see $^{227}\text{Pa}$	1E+3 Bone surf (6E+1)	2E+1 Bone surf (6E+1)	9E-9 -	- 8E-11	2E-5 -	2E-4 -
		Y, see $^{227}\text{Pa}$	-	6E+1 Bone surf (7E+1)	2E-8 -	- 1E-10	- -	- -
91	Protactinium-233	W, see $^{227}\text{Pa}$	1E+3 LLI wall (2E+3)	7E+2 -	3E-7 -	1E-9 -	- 2E-5	- 2E-4
		Y, see $^{227}\text{Pa}$	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see $^{227}\text{Pa}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see $^{227}\text{Pa}$	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0 Bone surf (6E+0)	4E-1 Bone surf (6E-1)	2E-10 -	- 8E-13	- 8E-8	- 8E-7
		W, UO, UF, UCl	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col.2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
92	Uranium-231	D, see $^{230}\text{U}$	5E+3 LLI wall (4E+3)	8E+3 -	3E-6 -	1E-8 -	- 6E-5	- 6E-4
		W, see $^{230}\text{U}$	-	6E+3	2E-6	8E-9	-	-
		Y, see $^{230}\text{U}$	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see $^{230}\text{U}$	2E+0 Bone surf (4E+0)	2E-1 Bone surf (4E-1)	9E-11 -	- 6E-13	- 6E-8	- 6E-7
		W, see $^{230}\text{U}$	-	4E-1	2E-10	5E-13	-	-
		Y, see $^{230}\text{U}$	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see $^{230}\text{U}$	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	5E-10 -	- 3E-12	- 3E-7	- 3E-6
		W, see $^{230}\text{U}$	-	7E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	5E-10 -	- 3E-12	- 3E-7	- 3E-6
		W, see $^{230}\text{U}$	-	7E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	6E-10 -	- 3E-12	- 3E-7	- 3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see $^{230}\text{U}$	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	5E-10 -	- 3E-12	- 3E-7	- 3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see $^{230}\text{U}$	2E+3 LLI wall (2E+3)	3E+3 -	1E-6 -	4E-9 -	- 3E-5	- 3E-4
		W, see $^{230}\text{U}$	-	2E+3	7E-7	2E-9	-	-
		Y, see $^{230}\text{U}$	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	6E-10 -	- 3E-12	- 3E-7	- 3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239 <sup>2</sup>	D, see $^{230}\text{U}$	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see $^{230}\text{U}$	-	2E+5	7E-5	2E-7	-	-
		Y, see $^{230}\text{U}$	-	2E+5	6E-5	2E-7	-	-

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
92	Uranium-240	D, see <sup>230</sup> U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see <sup>230</sup> U	-	3E+3	1E-6	4E-9	-	-
		Y, see <sup>230</sup> U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural <sup>3</sup>	D, see <sup>230</sup> U	1E+1	1E+0	5E-10	-	-	-
		Bone surf	(2E+1)	(2E+0)	-	3E-12	3E-7	3E-6
		W, see <sup>230</sup> U	-	8E-1	3E-10	9E-13	-	-
		Y, see <sup>230</sup> U	-	5E-2	2E-11	9E-24	-	-
93	Neptunium-232 <sup>2</sup>	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
		Bone surf	-	(5E+2)	-	6E-9	-	-
93	Neptunium-233 <sup>2</sup>	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
		LLI wall	(2E+4)	(1E+3)	-	2E-9	3E-4	3E-3
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0	2E-2	9E-12	-	-	-
		Bone surf	(6E+0)	(5E-2)	-	8E-14	9E-8	9E-7
93	Neptunium-236 (22.5 h)	W, all compounds	3E+3	3E+1	1E-8	-	-	-
		Bone surf	(4E+3)	(7E+1)	-	1E-10	5E-5	5E-4
93	Neptunium-237	W, all compounds	5E-1	4E-3	2E-12	-	-	-
		Bone surf	(1E+0)	(1E-2)	-	1E-14	2E-8	2E-7
93	Neptunium-238	W, all compounds	1E+3	6E+1	3E-8	-	2E-5	2E-4
		Bone surf	-	(2E+2)	-	2E-10	-	-
93	Neptunium-239	W, all compounds	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall	(2E+3)	-	-	-	2E-5	2E-4
93	Neptunium-240 <sup>2</sup>	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235 <sup>2</sup>	W, see <sup>234</sup> Pu	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see <sup>234</sup> Pu	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see <sup>234</sup> Pu	2E+0	2E-2	8E-12	-	-	-
		Bone surf	(4E+0)	(4E-2)	-	5E-14	6E-8	6E-7
		Y, see <sup>234</sup> Pu	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see <sup>234</sup> Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see <sup>234</sup> Pu	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see <sup>234</sup> Pu	9E-1	7E-3	3E-12	-	-	-
		Bone surf	(2E+0)	(1E-2)	-	2E-14	2E-8	2E-7
		Y, see <sup>234</sup> Pu	-	2E-2	8E-12	2E-14	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col.3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col.2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
94	Plutonium-239	W, see $^{234}\text{Pu}$	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-240	W, see $^{234}\text{Pu}$	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-241	W, see $^{234}\text{Pu}$	4E+1 Bone surf (7E+1)	3E-1 Bone surf (6E-1)	1E-10 -	- 8E-13	- 1E-6	- 1E-5
		Y, see $^{234}\text{Pu}$	-	8E-1 Bone surf (1E+0)	3E-10 -	- 1E-12	- -	- -
94	Plutonium-242	W, see $^{234}\text{Pu}$	8E-1 Bone surf (1E+0)	7E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-243	W, see $^{234}\text{Pu}$	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
		Y, see $^{234}\text{Pu}$	-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see $^{234}\text{Pu}$	8E-1 Bone surf (2E+0)	7E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-245	W, see $^{234}\text{Pu}$	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		Y, see $^{234}\text{Pu}$	-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see $^{234}\text{Pu}$	4E+2 LLI wall (4E+2)	3E+2 -	1E-7 -	4E-10 -	- 6E-6	- 6E-5
		Y, see $^{234}\text{Pu}$	-	3E+2	1E-7	4E-10	-	-
95	Americium-237 <sup>2</sup>	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95	Americium-238 <sup>2</sup>	W, all compounds	4E+4	3E+3 Bone surf (6E+3)	1E-6 -	- 9E-9	5E-4 -	5E-3 -
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7

Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col.3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
95	Americium-242m	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	-	-	-
95	Americium-242	W, all compounds	4E+3	8E+1 Bone surf (9E+1)	4E-8 -	-	5E-5	5E-4
95	Americium-243	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	-	-	-
95	Americium-244m <sup>2</sup>	W, all compounds	6E+4 St wall (8E+4)	4E+3 Bone surf (7E+3)	2E-6 -	-	-	-
95	Americium-244	W, all compounds	3E+3	2E+2 Bone surf (3E+2)	8E-8 -	-	4E-5	4E-4
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m <sup>2</sup>	W, all compounds	5E+4 St wall (6E+4)	2E+5 -	8E-5 -	3E-7	-	-
95	Americium-246 <sup>2</sup>	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1 Bone surf (8E+1)	6E-1 Bone surf (6E-1)	2E-10 -	-	-	-
96	Curium-241	W, all compounds	1E+3	3E+1 Bone surf (4E+1)	1E-8 -	-	2E-5	2E-4
96	Curium-242	W, all compounds	3E+1 Bone surf (5E+1)	3E-1 Bone surf (3E-1)	1E-10 -	-	-	-
96	Curium-243	W, all compounds	1E+0	9E-3	4E-12	-	-	-
96	Curium-244	W, all compounds	2E+0 Bone surf (3E+0)	2E-2 Bone surf (2E-2)	- -	2E-14	3E-8	3E-7
96	Curium-245	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	-	-	-
96	Curium-246	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	-	-	-
96	Curium-247	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	-	-	-
96	Curium-248	W, all compounds	2E-1 Bone surf (4E-1)	2E-3 Bone surf (3E-3)	7E-13 -	-	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
96	Curium-249 <sup>2</sup>	W, all compounds	5E+4	2E+4	7E-6	-	7E-4	7E-3
				Bone surf				
			-	(3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4	1E-13	-	-	-
			Bone surf	Bone surf				
			(6E-2)	(5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0	7E-10	-	-	-
			Bone surf	Bone surf				
			(5E+2)	(4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2	1E-7	-	1E-4	1E-3
				Bone surf				
			-	(7E+2)	-	1E-9	-	-
98	Californium-244 <sup>2</sup>	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see <sup>244</sup> Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see <sup>244</sup> Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see <sup>244</sup> Cf	8E+0	6E-2	3E-11	-	-	-
			Bone surf	Bone surf				
			(2E+1)	(1E-1)	-	2E-13	2E-7	2E-6
		Y, see <sup>244</sup> Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see <sup>244</sup> Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see <sup>244</sup> Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-250	W, see <sup>244</sup> Cf	1E+0	9E-3	4E-12	-	-	-
			Bone surf	Bone surf				
			(2E+0)	(2E-2)	-	3E-14	3E-8	3E-7
		Y, see <sup>244</sup> Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see <sup>244</sup> Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see <sup>244</sup> Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-252	W, see <sup>244</sup> Cf	2E+0	2E-2	8E-12	-	-	-
			Bone surf	Bone surf				
			(5E+0)	(4E-2)	-	5E-14	7E-8	7E-7
		Y, see <sup>244</sup> Cf	-	3E-2	1E-11	5E-14	-	-



Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col.3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
98	Californium-253	W, see <sup>244</sup> Cf	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see <sup>244</sup> Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see <sup>244</sup> Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see <sup>244</sup> Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
			Bone surf (1E+3)	-	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
			Bone surf (1E+3)	-	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
			Bone surf (9E+1)	-	-	1E-10	-	-
101	Mendelevium-258	W, all compounds	3E+1	2E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion <sup>1</sup>	-	2E+2	1E-7	1E-9	-	-
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours.	...	-	2E-1	1E-10	1E-12	1E-8	1E-7

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col.3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known.	...	-	4E-4	2E-13	1E-15	2E-9	2E-8

## FOOTNOTES:

<sup>1</sup> "Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.

<sup>2</sup> These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute  $1\text{E-}7 \mu\text{Ci/ml}$  for the listed DAC to account for the submersion dose prospectively but shall use individual monitoring devices or other radiation-measuring instruments that measure external exposure to demonstrate compliance with the limits. (See R12-1-410)

<sup>3</sup> For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see R12-1-408(E)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour work week is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour work week shall not exceed  $8\text{E-}3 \text{ (SA)} \mu\text{Ci-hr/ml}$ , where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is  $6.77\text{E-}7$  curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$\text{SA} = 3.6\text{E-}7 \text{ curies/gram U-depleted}$$

$$\text{SA} = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] \text{E-}6, \text{ enrichment} > 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

## NOTE:

1. If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
2. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this Appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this Appendix for any radionuclide that is not known to be absent from the mixture; or

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col.3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
	If it is known that Ac-227-D and Cm-250-W are not present		-	7E-4	3E-13	-	-	-
	If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present		-	7E-3	3E-12	-	-	-

## Radiation Regulatory Agency

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col.3 DAC	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
	If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-WY, and Cf-254-W,Y are not present		-	7E-2	3E-11	-	-	-
	If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	7E-1	3E-10	-	-	-
	If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present		-	7E+0	3E-9	-	-	-
	If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present		-	-	-	1E-14	-	-
	If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present		-	-	-	1E-13	-	-
	If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	-	-	-	1E-12	-
	If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present		-	-	-	-	1E-6	1E-5

3. If a mixture of radionuclides consists of Uranium and its daughters in ore dust (10 µm AMAD particle distribution assumed) prior to chemical separation of the Uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 µCi of gross alpha activity from Uranium-238, Uranium-234, Thorium-230, and Radium-226 per milliliter of air; 3E-11 µCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.
4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B to Article 4 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").  
Example: If radionuclides "A," "B," and "C" are present in concentrations  $C_A$ ,  $C_B$ , and  $C_C$ , and if the applicable DACs are  $DAC_A$ ,  $DAC_B$ , and  $DAC_C$  respectively then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Section repealed; new Section adopted effective August 10, 1994 (Supp. 94-3).

**APPENDIX C. QUANTITIES<sup>1</sup> OF LICENSED OR REGISTERED MATERIAL REQUIRING LABELING**

<b>Radionuclide</b>	<b>Quantity (<math>\mu</math>Ci)</b>	<b>Radionuclide</b>	<b>Quantity (<math>\mu</math>Ci)</b>
Hydrogen-3	1,000	Nickel-56	100
Beryllium-7	1,000	Nickel-57	100
Beryllium-10	1	Nickel-59	100
Carbon-11	1,000	Nickel-63	100
Carbon-14	1,000	Nickel-65	1,000
Fluorine-18	1,000	Nickel-66	10
Sodium-22	10	Copper-60	1,000
Sodium-24	100	Copper-61	1,000
Magnesium-28	100	Copper-64	1,000
Aluminum-26	10	Copper-67	1,000
Silicon-31	1,000	Zinc-62	100
Silicon-32	1	Zinc-63	1,000
Phosphorus-32	10	Zinc-65	10
Phosphorus-33	100	Zinc-69m	100
Sulfur-35	100	Zinc-69	1,000
Chlorine-36	10	Zinc-71m	1,000
Chlorine-38	1,000	Zinc-72	100
Chlorine-39	1,000	Gallium-65	1,000
Argon-39	1,000	Gallium-66	100
Argon-41	1,000	Gallium-67	1,000
Potassium-40	100	Gallium-68	1,000
Potassium-42	1,000	Gallium-70	1,000
Potassium-43	1,000	Gallium-72	100
Potassium-44	1,000	Gallium-73	1,000
Potassium-45	1,000	Germanium-66	1,000
Calcium-41	100	Germanium-67	1,000
Calcium-45	100	Germanium-68	10
Calcium-47	100	Germanium-69	1,000
Scandium-43	1,000	Germanium-71	1,000
Scandium-44m	100	Germanium-75	1,000
Scandium-44	100	Germanium-77	1,000
Scandium-46	10	Germanium-78	1,000
Scandium-47	100	Arsenic-69	1,000
Scandium-48	100	Arsenic-70	1,000
Scandium-49	1,000	Arsenic-71	100
Titanium-44	1	Arsenic-72	100
Titanium-45	1,000	Arsenic-73	100
Vanadium-47	1,000	Arsenic-74	100
Vanadium-48	100	Arsenic-76	100
Vanadium-49	1,000	Arsenic-77	100
Chromium-48	1,000	Arsenic-78	1,000
Chromium-49	1,000	Selenium-70	1,000
Chromium-51	1,000	Selenium-73m	1,000
Manganese-51	1,000	Selenium-73	100
Manganese-52m	1,000	Selenium-75	100
Manganese-52	100	Selenium-79	100
Manganese-53	1,000	Selenium-81m	1,000
Manganese-54	100	Selenium-81	1,000
Manganese-56	1,000	Selenium-83	1,000
Iron-52	100	Bromine-74m	1,000
Iron-55	100	Bromine-74	1,000
Iron-59	10	Bromine-75	1,000
Iron-60	1	Bromine-76	100
Cobalt-55	100	Bromine-77	1,000
Cobalt-56	10	Bromine-80m	1,000
Cobalt-57	100	Bromine-80	1,000
Cobalt-58m	1,000	Bromine-82	100
Cobalt-58	100	Bromine-83	1,000
Cobalt-60m	1,000	Bromine-84	1,000
Cobalt-60	1	Krypton-74	1,000
Cobalt-61	1,000	Krypton-76	1,000
Cobalt-62m	1,000	Krypton-77	1,000

\*To convert  $\mu$ Ci to kBq, multiply the  $\mu$ Ci value by 37.

Radionuclide	Quantity ( $\mu\text{Ci}$ )	Radionuclide	Quantity ( $\mu\text{Ci}$ )
Krypton-79	1,000	Technetium-93m	1,000
Krypton-81	1,000	Technetium-93	1,000
Krypton-83m	1,000	Technetium-94m	1,000
Krypton-85m	1,000	Technetium-94	1,000
Krypton-85	1,000	Technetium-96m	1,000
Krypton-87	1,000	Technetium-96	100
Krypton-88	1,000	Technetium-97m	100
Rubidium-79	1,000	Technetium-97	1,000
Rubidium-81m	1,000	Technetium-98	10
Rubidium-81	1,000	Technetium-99m	1,000
Rubidium-82m	1,000	Technetium-99	100
Rubidium-83	100	Technetium-101	1,000
Rubidium-84	100	Technetium-104	1,000
Rubidium-86	100	Ruthenium-94	1,000
Rubidium-87	100	Ruthenium-97	1,000
Rubidium-88	1,000	Ruthenium-103	100
Rubidium-89	1,000	Ruthenium-105	1,000
Strontium-80	100	Ruthenium-106	1
Strontium-81	1,000	Rhodium-99m	1,000
Strontium-83	100	Rhodium-99	100
Strontium-85m	1,000	Rhodium-100	100
Strontium-85	100	Rhodium-101m	1,000
Strontium-87m	1,000	Rhodium-101	10
Strontium-89	10	Rhodium-102m	10
Strontium-90	0.1	Rhodium-102	10
Strontium-91	100	Rhodium-103m	1,000
Strontium-92	100	Rhodium-105	100
Yttrium-86m	1,000	Rhodium-106m	1,000
Yttrium-86	100	Rhodium-107	1,000
Yttrium-87	100	Palladium-100	100
Yttrium-88	10	Palladium-101	1,000
Yttrium-90m	1,000	Palladium-103	100
Yttrium-90	10	Palladium-107	10
Yttrium-91m	1,000	Palladium-109	100
Yttrium-91	10	Silver-102	1,000
Yttrium-92	100	Silver-103	1,000
Yttrium-93	100	Silver-104m	1,000
Yttrium-94	1,000	Silver-104	1,000
Yttrium-95	1,000	Silver-105	100
Zirconium-86	100	Silver-106m	100
Zirconium-88	10	Silver-106	1,000
Zirconium-89	100	Silver-108m	1
Zirconium-93	1	Silver-110m	10
Zirconium-95	10	Silver-111	100
Zirconium-97	100	Silver-112	100
Niobium-88	1,000	Silver-115	1,000
Niobium-89m		Cadmium-104	1,000
(66 min)	1,000	Cadmium-107	1,000
Niobium-89		Cadmium-109	1
(122 min)	1,000	Cadmium-113m	0.1
Niobium-90	100	Cadmium-113	100
Niobium-93m	10	Cadmium-115m	10
Niobium-94	1	Cadmium-115	100
Niobium-95m	100	Cadmium-117m	1,000
Niobium-95	100	Cadmium-117	1,000
Niobium-96	100	Indium-109	1,000
Niobium-97	1,000	Indium-110m	
Niobium-98	1,000	(69.1m)	1,000
Molybdenum-90	100	Indium-110	
Molybdenum-93m	100	(4.9h)	1,000
Molybdenum-93	10	Indium-111	100
Molybdenum-99	100	Indium-112	1,000
Molybdenum-101	1,000	Indium-113m	1,000

\*To convert  $\mu\text{Ci}$  to kBq, multiply the  $\mu\text{Ci}$  value by 37.

## Radiation Regulatory Agency

Radionuclide	Quantity ( $\mu$ Ci)	Radionuclide	Quantity ( $\mu$ Ci)
Indium-114m	10	Iodine-123	100
Indium-115m	1,000	Iodine-124	10
Indium-115	100	Iodine-125	1
Indium-116m	1,000	Iodine-126	1
Indium-117m	1,000	Iodine-128	1,000
Indium-117	1,000	Iodine-129	1
Indium-119m	1,000	Iodine-130	10
Tin-110	100	Iodine-131	1
Tin-111	1,000	Iodine-132m	100
Tin-113	100	Iodine-132	100
Tin-117m	100	Iodine-133	10
Tin-119m	100	Iodine-134	1,000
Tin-121m	100	Iodine-135	100
Tin-121	1,000	Xenon-120	1,000
Tin-123m	1,000	Xenon-121	1,000
Tin-123	10	Xenon-122	1,000
Tin-125	10	Xenon-123	1,000
Tin-126	10	Xenon-125	1,000
Tin-127	1,000	Xenon-127	1,000
Tin-128	1,000	Xenon-129m	1,000
Antimony-115	1,000	Xenon-131m	1,000
Antimony-116m	1,000	Xenon-133m	1,000
Antimony-116	1,000	Xenon-133	1,000
Antimony-117	1,000	Xenon-135m	1,000
Antimony-118m	1,000	Xenon-135	1,000
Antimony-119	1,000	Xenon-138	1,000
Antimony-120 (16m)	1,000	Cesium-125	1,000
Antimony-120 (5.76d)	100	Cesium-127	1,000
Antimony-122	100	Cesium-129	1,000
Antimony-124m	1,000	Cesium-130	1,000
Antimony-124	10	Cesium-131	1,000
Antimony-125	100	Cesium-132	100
Antimony-126m	1,000	Cesium-134m	1,000
Antimony-126	100	Cesium-134	10
Antimony-127	100	Cesium-135m	1,000
Antimony-128	100	Cesium-135	100
Antimony-128 (10.4m)	1,000	Cesium-136	10
Antimony-128 (9.01h)	100	Cesium-137	10
Antimony-129	100	Cesium-138	1,000
Antimony-130	1,000	Barium-126	1,000
Antimony-131	1,000	Barium-128	100
Tellurium-116	1,000	Barium-131m	1,000
Tellurium-121m	10	Barium-131	100
Tellurium-121	100	Barium-133m	100
Tellurium-123m	10	Barium-133	100
Tellurium-123	100	Barium-135m	100
Tellurium-125m	10	Barium-139	1,000
Tellurium-127m	10	Barium-140	100
Tellurium-127	1,000	Barium-141	1,000
Tellurium-129m	10	Barium-142	1,000
Tellurium-129	1,000	Lanthanum-131	1,000
Tellurium-131m	10	Lanthanum-132	100
Tellurium-131	100	Lanthanum-135	1,000
Tellurium-132	10	Lanthanum-137	10
Tellurium-133m	100	Lanthanum-138	100
Tellurium-133	1,000	Lanthanum-140	100
Tellurium-134	1,000	Lanthanum-141	100
Iodine-120m	1,000	Lanthanum-142	1,000
Iodine-120	100	Lanthanum-143	1,000
Iodine-121	1,000	Cerium-134	100
		Cerium-135	100
		Cerium-137m	100
		Cerium-137	1,000

\*To convert  $\mu$ Ci to kBq, multiply the  $\mu$ Ci value by 37.

Radionuclide	Quantity ( $\mu$ Ci)	Radionuclide	Quantity ( $\mu$ Ci)
Cerium-139	100	Gadolinium-149	100
Cerium-141	100	Gadolinium-151	10
Cerium-143	100	Gadolinium-152	100
Cerium-144	1	Gadolinium-153	10
Praseodymium-136	1,000	Gadolinium-159	100
Praseodymium-137	1,000	Terbium-147	1,000
Praseodymium-138m	1,000	Terbium-149	100
Praseodymium-139	1,000	Terbium-150	1,000
Praseodymium-142m	1,000	Terbium-151	100
Praseodymium-142	100	Terbium-153	1,000
Praseodymium-143	100	Terbium-154	100
Praseodymium-144	1,000	Terbium-155	1,000
Praseodymium-145	100	Terbium-156m	
Praseodymium-147	1,000	(5.0h)	1,000
Neodymium-136	1,000	Terbium-156m	
Neodymium-138	100	(24.4h)	1,000
Neodymium-139m	1,000	Terbium-156	100
Neodymium-139	1,000	Terbium-157	10
Neodymium-141	1,000	Terbium-158	1
Neodymium-147	100	Terbium-160	10
Neodymium-149	1,000	Terbium-161	100
Neodymium-151	1,000	Dysprosium-155	1,000
Promethium-141	1,000	Dysprosium-157	1,000
Promethium-143	100	Dysprosium-159	100
Promethium-144	10	Dysprosium-165	1,000
Promethium-145	10	Dysprosium-166	100
Promethium-146	1	Holmium-155	1,000
Promethium-147	10	Holmium-157	1,000
Promethium-148m	10	Holmium-159	1,000
Promethium-148	10	Holmium-161	1,000
Promethium-149	100	Holmium-162m	1,000
Promethium-150	1,000	Holmium-162	1,000
Promethium-151	100	Holmium-164m	1,000
Samarium-141m	1,000	Holmium-164	1,000
Samarium-141	1,000	Holmium-166m	1
Samarium-142	1,000	Holmium-166	100
Samarium-145	100	Holmium-167	1,000
Samarium-146	1	Erbium-161	1,000
Samarium-147	100	Erbium-165	1,000
Samarium-151	10	Erbium-169	100
Samarium-153	100	Erbium-171	100
Samarium-155	1,000	Erbium-172	100
Samarium-156	1,000	Thulium-162	1,000
Europium-145	100	Thulium-166	100
Europium-146	100	Thulium-167	100
Europium-147	100	Thulium-170	10
Europium-148	10	Thulium-171	10
Europium-149	100	Thulium-172	100
Europium-150		Thulium-173	100
(12.62h)	100	Thulium-175	1,000
Europium-150		Ytterbium-162	1,000
(34.2y)	1	Ytterbium-166	100
Europium-152m	100	Ytterbium-167	1,000
Europium-152	1	Ytterbium-169	100
Europium-154	1	Ytterbium-175	100
Europium-155	10	Ytterbium-177	1,000
Europium-156	100	Ytterbium-178	1,000
Europium-157	100	Lutetium-169	100
Europium-158	1,000	Lutetium-170	100
Gadolinium-145	1,000	Lutetium-171	100
Gadolinium-146	10	Lutetium-172	100
Gadolinium-147	100	Lutetium-173	10
Gadolinium-148	0.001	Lutetium-174m	10

\*To convert  $\mu$ Ci to kBq, multiply the  $\mu$ Ci value by 37.



## Radiation Regulatory Agency

<b>Radionuclide</b>	<b>Quantity (<math>\mu</math>Ci)</b>	<b>Radionuclide</b>	<b>Quantity (<math>\mu</math>Ci)</b>
Lutetium-174	10	Osmium-185	100
Lutetium-176m	1,000	Osmium-189m	1,000
Lutetium-176	100	Osmium-191m	1,000
Lutetium-177m	10	Osmium-191	100
Lutetium-177	100	Osmium-193	100
Lutetium-178m	1,000	Osmium-194	1
Lutetium-178	1,000	Iridium-182	1,000
Lutetium-179	1,000	Iridium-184	1,000
Hafnium-170	100	Iridium-185	1,000
Hafnium-172	1	Iridium-186	100
Hafnium-173	1,000	Iridium-187	1,000
Hafnium-175	100	Iridium-188	100
Hafnium-177m	1,000	Iridium-189	100
Hafnium-178m	0.1	Iridium-190m	1,000
Hafnium-179m	10	Iridium-190	100
Hafnium-180m	1,000	Iridium-192m	
Hafnium-181	10	(1.4m)	10
Hafnium-182m	1,000	Iridium-192	
Hafnium-182	0.1	(73.8d)	1
Hafnium-183	1,000	Iridium-194m	10
Hafnium-184	100	Iridium-194	100
Tantalum-172	1,000	Iridium-195m	1,000
Tantalum-173	1,000	Iridium-195	1,000
Tantalum-174	1,000	Platinum-186	1,000
Tantalum-175	1,000	Platinum-188	100
Tantalum-176	100	Platinum-189	1,000
Tantalum-177	1,000	Platinum-191	100
Tantalum-178	1,000	Platinum-193m	100
Tantalum-179	100	Platinum-193	1,000
Tantalum-180m	1,000	Platinum-195m	100
Tantalum-180	100	Platinum-197m	1,000
Tantalum-182m	1,000	Platinum-197	100
Tantalum-182	10	Platinum-199	1,000
Tantalum-183	100	Platinum-200	100
Tantalum-184	100	Gold-193	1,000
Tantalum-185	1,000	Gold-194	100
Tantalum-186	1,000	Gold-195	10
Tungsten-176	1,000	Gold-198m	100
Tungsten-177	1,000	Gold-198	100
Tungsten-178	1,000	Gold-199	100
Tungsten-179	1,000	Gold-200m	100
Tungsten-181	1,000	Gold-200	1,000
Tungsten-185	100	Gold-201	1,000
Tungsten-187	100	Mercury-193m	100
Tungsten-188	10	Mercury-193	1,000
Rhenium-177	1,000	Mercury-194	1
Rhenium-178	1,000	Mercury-195m	100
Rhenium-181	1,000	Mercury-195	1,000
Rhenium-182		Mercury-197m	100
(12.7h)	1,000	Mercury-197	1,000
Rhenium-182		Mercury-199m	1,000
(64.0h)	100	Mercury-203	100
Rhenium-184m	10	Thallium-194m	1,000
Rhenium-184	100	Thallium-194	1,000
Rhenium-186m	10	Thallium-195	1,000
Rhenium-186	100	Thallium-197	1,000
Rhenium-187	1,000	Thallium-198m	1,000
Rhenium-188m	1,000	Thallium-198	1,000
Rhenium-188	100	Thallium-199	1,000
Rhenium-189	100	Thallium-201	1,000
Osmium-180	1,000	Thallium-200	1,000
Osmium-181	1,000	Thallium-202	100
Osmium-182	100	Thallium-204	100

\*To convert  $\mu$ Ci to kBq, multiply the  $\mu$ Ci value by 37.

Radionuclide	Quantity ( $\mu\text{Ci}$ )	Radionuclide	Quantity ( $\mu\text{Ci}$ )
Lead-195m	1,000	Uranium-230	0.01
Lead-198	1,000	Uranium-231	100
Lead-199	1,000	Uranium-232	0.001
Lead-200	100	Uranium-233	0.001
Lead-201	1,000	Uranium-234	0.001
Lead-202m	1,000	Uranium-235	0.001
Lead-202	10	Uranium-236	0.001
Lead-203	1,000	Uranium-237	100
Lead-205	100	Uranium-238	100
Lead-209	1,000	Uranium-239	1,000
Lead-210	0.01	Uranium-240	100
Lead-211	100	Uranium-natural	100
Lead-212	1	Neptunium-232	100
Lead-214	100	Neptunium-233	1,000
Bismuth-200	1,000	Neptunium-234	100
Bismuth-201	1,000	Neptunium-235	100
Bismuth-202	1,000	Neptunium-236	
Bismuth-203	100	(1.15E + 5)	0.001
Bismuth-205	100	Neptunium-236	
Bismuth-206	100	(22.5h)	1
Bismuth-207	10	Neptunium-237	0.001
Bismuth-210m	0.1	Neptunium-238	10
Bismuth-210	1	Neptunium-239	100
Bismuth-212	10	Neptunium-240	1,000
Bismuth-213	10	Plutonium-234	10
Bismuth-214	100	Plutonium-235	1,000
Polonium-203	1,000	Plutonium-236	0.001
Polonium-205	1,000	Plutonium-237	100
Polonium-207	1,000	Plutonium-238	0.001
Polonium-210	0.1	Plutonium-239	0.001
Astatine-207	100	Plutonium-240	0.001
Astatine-211	10	Plutonium-241	0.01
Radon-220	1	Plutonium-242	0.001
Radon-222	1	Plutonium-243	1,000
Francium-222	100	Plutonium-244	0.001
Francium-223	100	Plutonium-245	100
Radium-223	0.1	Americium-237	1,000
Radium-224	0.1	Americium-238	100
Radium-225	0.1	Americium-239	1,000
Radium-226	0.1	Americium-240	100
Radium-227	1,000	Americium-241	0.001
Radium-228	0.1	Americium-242m	0.001
Actinium-224	1	Americium-242	10
Actinium-225	0.01	Americium-243	0.001
Actinium-226	0.1	Americium-244m	100
Actinium-227	0.001	Americium-244	10
Actinium-228	1	Americium-245	1,000
Thorium-226	10	Americium-246m	1,000
Thorium-227	0.01	Americium-246	1,000
Thorium-228	0.001	Curium-238	100
Thorium-229	0.001	Curium-240	0.1
Thorium-230	0.001	Curium-241	1
Thorium-231	100	Curium-242	0.01
Thorium-232	100	Curium-243	0.001
Thorium-234	10	Curium-244	0.001
Thorium-natural	100	Curium-245	0.001
Protactinium-227	10	Curium-246	0.001
Protactinium-228	1	Curium-247	0.001
Protactinium-230	0.1	Curium-248	0.001
Protactinium-231	0.001	Curium-249	1,000
Protactinium-232	1	Berkelium-245	100
Protactinium-233	100	Berkelium-246	100
Protactinium-234	100	Berkelium-247	0.001

\*To convert  $\mu\text{Ci}$  to kBq, multiply the  $\mu\text{Ci}$  value by 37.

## Radiation Regulatory Agency

Radionuclide	Quantity ( $\mu\text{Ci}$ )	Radionuclide	Quantity ( $\mu\text{Ci}$ )
Berkelium-249	0.1	Fermium-254	10
Berkelium-250	10	Fermium-255	1
Californium-244	100	Fermium-257	0.01
Californium-246	1	Mendelevium-257	10
Californium-248	0.01	Mendelevium-258	0.01
Californium-249	0.001	Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001
Californium-250	0.001		
Californium-251	0.001		
Californium-252	0.001		
Californium-253	0.1		
Californium-254	0.001		
Einsteinium-250	100		
Einsteinium-251	100	Any radionuclide other than alpha- emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01
Einsteinium-253	0.1		
Einsteinium-254m	1		
Einsteinium-254	0.01		
Fermium-252	1		
Fermium-253	1		

\* To convert  $\mu\text{Ci}$  to kBq, multiply the  $\mu\text{Ci}$  value by 37.

NOTE: For purposes of R12-1-428(E), R12-1-432(A), and R12-1-443(A) where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" -- that is, unity.

<sup>1</sup> The quantities listed above were derived by taking 1/10 of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to Article 4, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000  $\mu\text{Ci}$ ). Values of 3.7 MBq (100  $\mu\text{Ci}$ ) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000  $\mu\text{Ci}$ ), to take into account their low specific activity.

**Historical Note**

Adopted effective August 10, 1994 (Supp. 94-3).

**APPENDIX D. CLASSIFICATION AND CHARACTERISTICS OF LOW-LEVEL RADIOACTIVE WASTE****I. Classification of Radioactive Waste for Land Disposal**

- a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radio nuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.
- b) Classes of waste.
  - 1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II(a). If Class A waste also meets the stability requirements set forth in Section II(b), it is not necessary to segregate the waste for disposal.
  - 2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.
  - 3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.
- c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:
  - 1) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.
  - 2) If the concentration exceeds 0.1 times the value in Table I but does not exceed the value in Table I, the waste is Class C.
  - 3) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.
  - 4) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

**TABLE I**  
**Concentration**

Radionuclide	curie/cubic meter <sup>a</sup>	nanocuries/gram <sup>b</sup>
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	
Tc-99	3	
I-129	0.08	
Alpha-emitting transuranic radionuclides with half-life greater than five years	100	
Pu-241		3,500
Cm-242		20,000
Ra-226		100

<sup>a</sup>To convert the Ci/m<sup>3</sup> values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m<sup>3</sup> value by 37.

<sup>b</sup>To convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

- |   |   |
|---|---|
| <p>d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.</p> <ol style="list-style-type: none"> <li>1) If the concentration does not exceed the value in Column 1, the waste is Class A.</li> <li>2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.</li> </ol> | <ol style="list-style-type: none"> <li>3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.</li> <li>4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.</li> <li>5) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I(g).</li> </ol> |
|---|---|

**TABLE II**

Radionuclide	Concentration, Column 1	curie/cubic meter*	
		Column 2	Column 3
Total of all radionuclides with less than 5-year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

\*AGENCY NOTE: To convert the Ci/m<sup>3</sup> value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m<sup>3</sup> value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

- |   |   |
|---|---|
| <p>e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and some of which are listed in Table II, classification shall be determined as follows:</p> <ol style="list-style-type: none"> <li>1) If the concentration of a radionuclide listed in Table I is less than 0.1 times the value listed in Table I, the class shall be that determined by the concentration of radionuclides listed in Table II.</li> <li>2) If the concentration of a radionuclide listed in Table I exceeds 0.1 times the value listed in Table I, but does not exceed the value in Table II, the waste shall be Class C, provided the concentration of radionuclides listed in Table II does not exceed the value shown in Column 3 of Table II.</li> </ol> | <p>f) Classification of wastes with radionuclides other than those listed in Tables I and II. If the waste does not contain any radionuclides listed in either Table I or II, it is Class A.</p> <p>g) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits shall all be taken from the same column of the same table. The sum of the fractions for the column shall be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 1.85 TBq/m<sup>3</sup> (50 Ci/m<sup>3</sup>) and Cs-137 in a concentration of 814 GBq/m<sup>3</sup>.</p> |
|---|---|

m<sup>3</sup> (22 Ci/m<sup>3</sup>). Since the concentrations both exceed the values in Column 1, Table II, they shall be compared to Column 2 values. For Sr-90 fraction,  $50/150 = 0.33$ , for Cs-137 fraction,  $22/44 = 0.5$ ; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

- h) Determination of concentrations in wastes. The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as becquerel (nanocurie) per gram.

## II. Radioactive Waste Characteristics

- a) The following are minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site.
- 1) Wastes shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. Where the conditions of the site license are more restrictive than the provisions of Article 4, the site license conditions shall govern.
  - 2) Wastes shall not be packaged for disposal in cardboard or fiberboard boxes.
  - 3) Liquid waste shall be packaged in sufficient absorbent material to absorb twice the volume of the liquid.
  - 4) Solid waste containing liquid shall contain as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume.
  - 5) Waste shall not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.
  - 6) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with Section II(a)(8).
  - 7) Waste shall not be pyrophoric. Pyrophoric materials contained in wastes shall be treated, prepared, and packaged to be nonflammable \*\*\*\*\*

- 8) Wastes in a gaseous form shall be packaged at an absolute pressure that does not exceed 1.5 atmospheres at 20° C. Total activity shall not exceed 3.7 TBq (100 Ci) per container.

- 9) Wastes containing hazardous, biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard from the non-radiological materials.

- b) The following requirements are intended to provide stability of the waste. Stability is intended to ensure that the waste does not degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

- 1) Waste shall have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

- 2) Notwithstanding the provisions in Section II(a)(3) and (4), liquid wastes, or wastes containing liquid, shall be converted into a form that contains as little free-standing and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

- 3) Void spaces within the waste and between the waste and its package shall be reduced to the extent practicable.

## III. Labeling

Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

\*\*\*\*\*See (A)(4) of these regulations for definition of pyrophoric.

### Historical Note

Adopted effective August 10, 1994 (Supp. 94-3).

**APPENDIX E. QUANTITIES FOR USE WITH DECOMMISSIONING**

<b>Material</b>	<b>Microcurie</b>	<b>Material</b>	<b>Microcurie</b>
Americium-241	0.01	Iodine-134	10
Antimony-122	100	Iodine-135	10
Antimony-124	10	Iridium-192	10
Antimony-125	10	Iridium-194	100
Arsenic-73	100	Iron-55	100
Arsenic-74	10	Iron-59	10
Arsenic-76	10	Krypton-85	100
Arsenic-77	100	Krypton-87	10
Barium-131	10	Lanthanum-140	10
Barium-133	10	Lutetium-177	100
Barium-140	10	Manganese-52	10
Bismuth-210	1	Manganese-54	10
Bromine-82	10	Manganese-56	10
Cadmium-109	10	Mercury-197m	100
Cadmium-115m	10	Mercury-197	100
Cadmium-115	100	Mercury-203	10
Calcium-45	10	Molybdenum-99	100
Calcium-47	10	Neodymium-147	100
Carbon-14	100	Neodymium-149	100
Cerium-141	100	Nickel-59	100
Cerium-143	100	Nickel-63	10
Cerium-144	1	Nickel-65	100
Cesium-131	1,000	Niobium-93m	10
Cesium-134m	100	Niobium-95	10
Cesium-134	1	Niobium-97	10
Cesium-135	10	Osmium-185	10
Cesium-136	10	Osmium-191m	100
Cesium-137	10	Osmium-191	100
Chlorine-36	10	Osmium-193	100
Chlorine-38	10	Palladium-103	100
Chromium-51	1,000	Palladium-109	100
Cobalt-58m	10	Phosphorus-32	10
Cobalt-58	10	Platinum-191	100
Cobalt-60	1	Platinum-193m	100
Copper-64	100	Platinum-193	100
Dysprosium-165	10	Platinum-197m	100
Dysprosium-166	100	Platinum-197	100
Erbium-169	100	Plutonium-239	0.01
Erbium-171	100	Polonium-210	0.1
Europium-152 (9.2 h)	100	Potassium-42	10
Europium-152 (13 yr)	1	Praseodymium-142	100
Europium-154	1	Praseodymium-143	100
Europium-155	10	Promethium-147	10
Fluorine-18	1,000	Promethium-149	10
Gadolinium-153	10	Radium-226	0.01
Gadolinium-159	100	Rhenium-186	100
Gallium-72	10	Rhenium-188	100
Germanium-71	100	Rhodium-103m	100
Gold-198	100	Rhodium-105	100
Gold-199	100	Rubidium-86	10
Hafnium-181	10	Rubidium-87	10
Holmium-166	100	Ruthenium-97	100
Hydrogen-3	1,000	Ruthenium-103	10
Indium-113m	100	Ruthenium-105	10
Indium-114m	10	Ruthenium-106	1
Indium-115m	100	Samarium-151	10
Indium-115	10	Samarium-153	100
Iodine-125	1	Scandium-46	10
Iodine-126	1	Scandium-47	100
Iodine-129	0.1	Scandium-48	10
Iodine-131	1	Selenium-75	10
Iodine-132	10	Silicon-31	100
Iodine-133	1	Silver-105	10

\* To convert  $\mu\text{Ci}$  to  $\text{kBq}$ , multiply the  $\mu\text{Ci}$  value by 37.

## Radiation Regulatory Agency

Material	Microcurie	Material	Microcurie
Silver-110m	1	Tungsten-181	10
Silver-111	100	Tungsten-185	10
Sodium-22	1	Tungsten-187	100
Sodium-24	10	Uranium (natural)**	100
Strontium-85	10	Uranium-233	0.01
Strontium-89	1	Uranium-234	0.01
Strontium-90	0.1	Uranium-235	0.01
Strontium-91	10	Vanadium-48	10
Strontium-92	10	Xenon-131m	1,000
Sulfur-35	100	Xenon-133	100
Tantalum-182	10	Xenon-135	100
Technetium-96	10	Ytterbium-175	100
Technetium-97m	100	Yttrium-90	10
Technetium-97	100	Yttrium-91	10
Technetium-99m	100	Yttrium-92	100
Technetium-99	10	Yttrium-93	100
Tellurium-125m	10	Zinc-65	10
Tellurium-127m	10	Zinc-69m	100
Tellurium-127	100	Zinc-69	1,000
Tellurium-129m	10	Zirconium-93	10
Tellurium-129	100	Zirconium-95	10
Tellurium-131m	10	Zirconium-97	10
Tellurium-132	10	Any alpha emitting	
Terbium-160	10	radionuclide not listed	
Thallium-200	100	above or mixtures of	
Thallium-201	100	alpha emitters of unknown	
Thallium-202	100	composition	0.01
Thallium-204	10		
Thorium (natural)**	100	Any radionuclide other	
Thulium-170	10	than alpha emitting	
Thulium-171	10	radionuclides, not listed	
Tin-113	10	above or mixtures of	
Tin-125	10	beta emitters of unknown	
		composition	0.1

\*To convert  $\mu\text{Ci}$  to  $\text{kBq}$ , multiply the  $\mu\text{Ci}$  value by 37.

\*\* Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

\*\*\* Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" - that is, unity.

#### Historical Note

Adopted effective August 10, 1994 (Supp. 94-3).

#### ARRA-6. Repealed

##### Historical Note

Adopted effective February 25, 1985 (Supp. 85-1). Form repealed, new form adopted in Article 10 effective August 10, 1994 (Supp. 94-3).

#### ARRA-7. Repealed

##### Historical Note

Adopted effective February 25, 1985 (Supp. 85-1). Repealed effective August 10, 1994 (Supp. 94-3).

#### ARRA-8. Repealed

##### Historical Note

Adopted effective February 25, 1985 (Supp. 85-1). Repealed effective August 10, 1994 (Supp. 94-3).

#### ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

##### R12-1-501. Definitions

"Access panel" means any panel that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

"Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised state rules, accidents or errors that have occurred, and provide opportunities for employees to ask safety questions.

"Aperture" means any opening in the outside surface of the cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Associated equipment” means equipment used in conjunction with a radiographic exposure device that drives, guides, or comes in contact with the source.

“Certifying entity” means an independent certifying organization that complies with the requirements in Appendix A of this Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.

“Collimator” means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is positioned to make a radiographic exposure.

“Control (drive) cable” means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

“Control (drive) mechanism” means a device that enables the source assembly to be moved to and from the exposure device.

“Control tube” means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, not opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Exposure head” means a device that places the gamma radiography sealed source in a selected working position.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Guide tube (projection sheath)” means a flexible or rigid tube (i.e., “J” tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

“Hands-on experience” means accumulation of knowledge or skill in any area relevant to radiography.

“Independent certifying organization” means an independent organization that meets all of the requirements in Appendix A.

“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” means any opening in the outside surface of the cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation whose dimensions do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, including use of all radiography equipment and knowledge of radiography procedures.

“Radiographer certification” means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.

“Source assembly” means an assembly that consists of a sealed source and a connector that attaches the source to a control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

“Underwater radiography” means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

#### Historical Note

Former Rule Section E.1; Former Section R12-1-501 repealed, new Section R12-1-501 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-501 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### R12-1-502. License Requirements

- A. The Agency shall review an application for a specific license for the use of radioactive material in industrial radiography and approve the license if an applicant meets all of the following requirements:
1. The applicant satisfies the general requirements in R12-1-309 and any special requirements contained in this Article; and
  2. The applicant submits a program for training radiographers and radiographers' assistants that complies with R12-1-543, except that:
    - a. After the effective date of this Section, an applicant is not required to describe its initial training and examination program for radiographers;
    - b. An applicant shall affirm that an individual who is acting as an industrial radiographer is certified in radiation safety by a certifying organization, as required in R12-1-543, before permitting the individual to act as a radiographer. This affirmation substitutes for a description of the applicant's initial training and examination program for radiographers in the subjects outlined in R12-1-543(G); and
    - c. An applicant shall submit procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. The applicant shall submit written operating and emergency procedures as prescribed in R12-1-522.
- C. The applicant shall submit a description of a program for review of job performance of each radiographer and radiographers' assistant at intervals that do not exceed six months as prescribed in R12-1-543(E).
- D. The applicant shall submit a description of the applicant's overall organizational structure as it applies to radiation safety



responsibilities in industrial radiography, including specified delegation of authority and responsibility.

- E. The applicant shall submit a list of the qualifications of each individual designated as an RSO under R12-1-512 and indicate which designee is responsible for ensuring that the licensee's radiation safety program is implemented in accordance with approved procedures.
- F. If an applicant intends to perform leak testing on any sealed source or exposure device that contains depleted uranium (DU) shielding, the applicant shall submit a description of the procedures for performing the leak testing and the qualifications of each person authorized to perform leak testing. If the applicant intends to analyze its own wipe samples, the application shall include a description of the procedures to be followed. The description shall include the:
  - 1. Instruments to be used,
  - 2. Methods of performing the analysis, and
  - 3. Relevant experience of the person who will analyze the wipe samples.
- G. If the applicant intends to perform "in-house" calibrations of survey instruments, the applicant shall describe each calibration method to be used and the relevant experience of each person who will perform a calibration. A licensee shall perform all calibrations according to the procedures prescribed in R12-1-504.
- H. The applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- I. The applicant shall identify each location where records required by this Chapter will be maintained.

#### Historical Note

Former Rule Section E.2; Former Section R12-1-502 repealed, new Section R12-1-502 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-502 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Section repealed, new Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-503. Performance Requirements for Equipment

- A. A licensee shall ensure that equipment used in industrial radiographic operations meets the following minimum criteria:
  - 1. Each radiographic exposure device, source assembly or sealed source, and all associated equipment meet the requirements in American National Standards Institute, N432-1980 Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography, 1980 edition, published as NBS Handbook 136 and issued January 1981 by the American National Standards Institute, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments. This publication may be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018 Telephone (212) 642-4900; or
  - 2. An engineering safety analysis demonstrates the applicability of previously performed testing on similar individual radiography equipment components. Based on a review of the analysis, the Agency may find that previously performed testing can be substituted for testing of the component under the standards in subsection (A)(1).
- B. In addition to the requirements in subsection (A), the following requirements apply to each radiographic exposure device, source changer, source assembly, and sealed source:

- 1. A licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, and clearly visible label bearing:
  - a. The chemical symbol and mass number of the radionuclide in the device;
  - b. The activity of the source and the date on which this activity was last measured;
  - c. The model (or product code) and serial number of the sealed source;
  - d. The manufacturer's description of the sealed source; and
  - e. The licensee's name, address, and telephone number.
- 2. A licensee shall ensure that each radiographic exposure device intended for use as a Type B transport container meets the applicable requirements of 10 CFR 71, 2003 edition, published January 1, 2003, by the Office of the Federal Register National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- 3. A licensee shall not modify any radiographic exposure device, source changer, source assembly, or associated equipment, unless the design of the replacement component, including source holder, source assembly, controls, or guide tubes is consistent with and does not compromise the design safety features of the system.
- C. In addition to the requirements in subsections (A) and (B), the following requirements apply to each radiographic exposure device, source assembly, and associated equipment that allows the source to be moved out of the device for radiographic operations or to a source changer:
  - 1. The license shall ensure that the coupling between the source assembly and the control cable is designed so that the source assembly does not become disconnected if it is positioned outside of the guide tube and is constructed so that an unintentional disconnect will not occur under normal and reasonably foreseeable abnormal conditions;
  - 2. The device automatically secures the source assembly if it is retracted into the fully shielded position within the device and the securing system is released from the exposure device only by means of a deliberate operation;
  - 3. The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device are equipped with safety plugs or covers installed for storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter;
  - 4. Each sealed source or source assembly has attached to it or is engraved with a durable, legible, and visible label with the words: "DANGER--RADIOACTIVE." The licensee shall ensure that the label does not interfere with safe operation of the equipment;
  - 5. The guide tube is able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use;
  - 6. A guide tube is used if a person moves the source out of the device;
  - 7. An exposure head or similar device, designed to prevent the source assembly from passing out of the end of the guide tube, is attached to the outermost end of the guide tube during industrial radiography operations;
  - 8. The guide tube exposure head connection is able to withstand the tensile test for control units specified in ANSI

N432-1980, incorporated by reference in subsection (A); and

9. Source changers provide a system for ensuring that the source is not accidentally withdrawn from the changer when a person is connecting or disconnecting the drive cable to or from the source assembly.
- D. A licensee shall ensure that radiographic exposure devices and associated equipment in use after January 10, 1996 comply with the requirements of this Section.
- E. Notwithstanding subsection (A), a licensee with equipment used in industrial radiographic operations need not comply with Sec. 8.92(C) of the Endurance Test in American National Standards Institute N432-1980 if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

#### Historical Note

Former Rule Section E.3; Former Section R12-1-503 repealed, new Section R12-1-503 adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Former Section R12-1-503 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-504. Radiation Survey Instruments

- A. A licensee shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A licensee shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
  1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
  2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
  3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A licensee shall maintain calibration records for each radiation survey instrument, and maintain each record for three years after it is made.

#### Historical Note

Former Rule Section E.4; Former Section R12-1-504 repealed, new Section R12-1-504 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-504 repealed, new Section R12-1-504 adopted effective December 20, 1985 (Supp. 85-6). Former Section R12-1-504 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-505. Leak Testing and Replacement of Sealed Sources

- A. A licensee shall ensure that replacement of any sealed source fastened to or contained in a radiographic exposure device and

leak testing of any sealed source is performed by a person authorized to do so by the Agency, NRC, or another Agreement State.

- B. A licensee shall ensure that opening, repairing, or modifying any sealed source is performed by a person specifically authorized to do so by the Agency, NRC, or another Agreement State.
- C. A licensee that uses a sealed source shall have the source tested for leakage by a qualified person at intervals that do not exceed six months. The person who performs leak testing of the source shall use a method approved by the Agency, NRC, or by another Agreement State. A wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and a person specifically authorized by the Agency, NRC, or another Agreement State performs the analysis. The licensee shall maintain records of the leak tests in accordance with this Section.
- D. Unless a sealed source is accompanied by a certificate from the transferor that shows that the sealed source has been leak tested within six months before the transfer, a licensee shall not use the sealed source until it is tested for leakage. A licensee is not required to test a sealed source that is in storage, but shall test each sealed source before use or transfer to another person if the interval of storage exceeds six months.
- E. A licensee shall immediately withdraw equipment containing a leaking source from use and have it decontaminated and repaired or dispose of the source in accordance with this Chapter. The licensee shall file a report with the Director of the Agency within five days of any test with results that exceed the threshold in this subsection, and describe the equipment involved, the test results, and corrective action taken. If a leak test conducted under this Section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material the Agency classifies the sealed source as leaking.
- F. A licensee shall test for DU contamination at intervals that do not exceed 12 months a radiographic exposure device that uses depleted uranium (DU) shielding and an "S" tube configuration. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and a person specifically authorized by the Agency, NRC, or another Agreement State performs the analysis. If the testing reveals the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the licensee shall remove the exposure device from use until an evaluation of the wear on the S-tube is completed. If the evaluation reveals that the S-tube is worn through, the licensee shall ensure that the device is not used again. The licensee is not required to test for DU contamination if the radiographic exposure device is in storage. Before using or transferring the radiographic exposure device, the licensee shall test the device for DU contamination if the interval of storage exceeds 12 months. The licensee shall maintain records of the DU leak test in accordance with subsection (G).
- G. A licensee shall maintain records of leak test results for each sealed source and for each device that contains DU. The licensee shall ensure results are in Becquerels (microcuries), and retain each record for three years after it is made or until the source is removed from storage and tested, whichever is longer.

#### Historical Note

Former Rule Section E.5; Former Section R12-1-505 repealed, new Section R12-1-505 adopted effective June

30, 1977 (Supp. 77-3). Former Section R12-1-505 repealed, new Section R12-1-505 adopted effective December 20, 1985 (Supp. 85-6). Amended subsections (A), (F) and (G) effective May 2, 1988 (Supp. 88-2). Former Section R12-1-505 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### **R12-1-506. Quarterly Inventory**

- A. A licensee shall conduct a quarterly physical inventory to account for all sealed sources and devices that contain depleted uranium.
- B. A licensee shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required in subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, radionuclide, number of becquerels (curies) or mass (for DU) in each device, location of sealed source and associated devices, and manufacturer, model, and serial number of each sealed source and device as applicable.

##### **Historical Note**

Former Rule Section E.6; Former Section R12-1-506 repealed, new Section R12-1-506 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-506 repealed, new Section R12-1-506 adopted effective December 20, 1985 (Supp. 85-6). Amended subsection (A) effective May 2, 1988 (Supp. 88-2). Former Section R12-1-506 repealed, new Section adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### **R12-1-507. Utilization Logs**

- A. A licensee shall maintain for each sealed source a utilization log that provides all of the following information:
  - 1. A description, including the make, model, and serial number of each radiographic exposure device, and each sealed source transport and storage container that contains a sealed source;
  - 2. The identity and signature of the radiographer using the source; and
  - 3. The plant or site where the source is used and dates of use, including the date each source is removed from and returned to storage.
- B. A licensee shall retain the log required by subsection (A) for three years after the log is made.

##### **Historical Note**

Former Section R12-1-507 repealed effective December 20, 1985 (Supp. 85-6). New Section adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### **R12-1-508. Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment**

- A. A licensee shall perform visual and operability checks on each survey instrument, radiographic exposure device, transport and storage container, source changer, and associated equipment before use on each day the equipment is to be used to ensure that the equipment is in good working condition, the source is adequately shielded, and required labeling is present.

A survey instrument operability check shall be performed using a check source or other authorized means. If an equipment problem is found, the licensee shall remove the equipment from service until it is repaired.

- B. A licensee shall have written inspection and maintenance procedures to ensure that:
  - 1. Radiographic exposure devices, source changers, transport and storage containers, survey instruments, and associated equipment that require inspection and maintenance at intervals that do not exceed three months or before first use of the equipment are functioning properly and safely. Replacement components shall meet design specifications. If an equipment problem is discovered, the licensee shall remove the equipment from service until it is repaired; and
  - 2. Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.
- C. A licensee shall maintain records of daily checks and quarterly inspections of radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment, and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

##### **Historical Note**

Former Section R12-1-508 repealed effective December 20, 1985 (Supp. 85-6). New Section adopted effective April 2, 1990 (Supp. 90-2). Heading amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### **R12-1-509. Surveillance**

During each radiographic operation, a radiographer or the radiographer's assistant, as permitted by R12-1-510, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the licensee is in compliance with R12-1-539.

##### **Historical Note**

Former Section R12-1-509 repealed effective December 20, 1985 (Supp. 85-6). New Section adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### **R12-1-510. Radiographic Operations**

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a licensee shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R12-1-543. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Industrial radiography is prohibited if only one qualified individual is present.
- B. A licensee shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the license in a permanent radiographic installation, unless another permanent location is specifically authorized by the Agency.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section adopted effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed;  
new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-511. Repealed****Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section adopted effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-512. Radiation Safety Officer (RSO)**

- A.** A licensee shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B.** Except as provided in subsection (C), the licensee shall ensure that the RSO satisfies the following minimum requirements:
1. The training and testing requirements in R12-1-543,
  2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation, and
  3. Formal training in the establishment and maintenance of a radiation safety program.
- C.** If the licensee uses an individual in the position of RSO who does not have the training and experience required in subsection (B), the licensee shall provide the Agency with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program so the Agency can determine whether the individual is qualified to perform under subsection (D).
- D.** The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter and reviewing them every year to ensure that the procedures in use conform to current Agency rules and license conditions;
  2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
  3. Overseeing radiation surveys, leak tests, and associated documentation to ensure that the surveys and tests are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
  4. Overseeing the personnel monitoring program to ensure that devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R12-1-444; and
  5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 7 A.A.R. 2584,

effective June 8, 2001 (Supp. 01-2). Section repealed;  
new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-513. Form of Records**

A licensee shall maintain records in accordance with R12-1-405.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-514. Limits on External Radiation Levels from Storage Containers and Source Changers**

The maximum rate limits for storage containers and source changers are 2 millisieverts (200 mRem/hr) at any exterior surface and 0.1 millisieverts (10 mRem/hr) at 1 meter from any exterior surface with the sealed source in the shielded position.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

**R12-1-515. Locking Radiographic Exposure Devices, Storage Containers, and Source Changers**

- A.** Except at permanent radiographic installations governed by R12-1-539, a licensee shall ensure that each radiographic exposure device has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that the exposure device or its container, if applicable, is locked (and if a keyed lock, with the key removed) if the device or container is not under the direct surveillance of a radiographer or a radiographer's assistant. During radiographic operations, the radiographer or radiographer's assistant shall secure the sealed source assembly in the shielded position each time the source is returned to the shielded position.
- B.** A licensee shall ensure that each sealed source storage container and source changer has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that each storage container and source changer is locked (and if a keyed lock, with the key removed) if the storage container or source changer contains a sealed source and is not under the direct surveillance of a radiographer or a radiographer's assistant.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-516. Records of Receipt and Transfer of Sealed Sources**

- A.** A licensee shall maintain records that show each receipt and transfer of a sealed source or device that uses DU for shielding and retain each record for three years after it is made.
- B.** The records shall contain separate entries for each transaction, including the date, name of the individual making the record, radionuclide, number of Becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source or device, as applicable.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-517. Posting**

A licensee shall post any area in which industrial radiography is performed as required by R12-1-429. Exceptions listed in R12-1-430 do not apply to industrial radiographic operations.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-518. Labeling, Storage, and Transportation**

- A.** A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"
- B.** A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C.** A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.
- D.** A licensee shall lock each transport package that contains licensed material and physically secure the package behind the locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

**Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).  
New Section made by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

**R12-1-519. Repealed****Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).

**R12-1-520. Repealed****Historical Note**

Repealed effective December 20, 1985 (Supp. 85-6).

**R12-1-521. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-522. Operating and Emergency Procedures**

- A.** A licensee shall ensure that the operating and emergency procedures include, at a minimum, instructions in the following, as applicable:

1. Handling and use of sealed sources or radiographic exposure devices, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
  2. Methods and occasions for conducting radiation surveys;
  3. Methods for controlling access to radiographic areas;
  4. Methods and occasions for locking and securing radiographic exposure devices, transport and storage containers, and sealed sources;
  5. Personnel monitoring and associated equipment;
  6. Transportation of sealed sources to field locations, including packing radiographic exposure devices and storage containers in vehicles, placarding vehicles, and maintaining control of the sealed sources during transportation, as required in 49 CFR 171-173, 2002 edition, published October 1, 2002, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Agency. This incorporation contains no future editions or amendments;
  7. Inspection, maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers;
  8. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
  9. Procedures for identifying and reporting defects and non-compliance, as required by R12-1-448 and R12-1-535;
  10. Procedures for notifying the RSO and the Agency in the event of an accident;
  11. Methods for minimizing exposure of persons in the event of an accident;
  12. Procedures for recovering a source if the licensee is responsible for source recovery; and
  13. Maintenance of records.
- B.** The licensee shall maintain copies of current operating and emergency procedures until the Agency terminates the license. Superseded procedures shall be maintained for three years after being superceded. Additionally, a copy of the procedures shall be maintained at field stations in accordance with R12-1-540.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-523. Personnel Monitoring**

- A.** A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:
  1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirem). The licensee shall ensure that each dosimeter is recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.
  2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
  3. Replace film badges at least monthly and ensure that other personnel dosimeters are processed and evaluated

by an accredited NVLAP processor and replaced at periods that do not exceed three months.

4. After replacement, ensure that each personnel dosimeter is processed as soon as possible.
- B.** A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personal dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for three years after the Agency terminates the license.
- C.** A licensee shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.
- D.** If an individual's pocket dosimeter has an off-scale reading, or the individual's electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a licensee shall process the individual's dosimeter within 24 hours of the suspect exposure. The licensee shall not allow the individual to resume work associated with sources of radiation until the individual's radiation exposure has been determined. Using information from the dosimeter, the licensee's RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the results of this determination in the personnel monitoring records maintained in accordance with subsection (B).
- E.** If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F.** The licensee shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).
- G.** For each alarm rate meter a licensee shall ensure that:
  1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
  2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
  3. A special means is necessary to change the preset alarm function on the device; and
  4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-524. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiographic exposure device, associated equipment, or a sealed source or conducts a radiation

survey required by R12-1-533(B) to determine that the sealed source has returned to the shielded position after an exposure, the licensee shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the sealed source is being used,
2. The radiographer is available to give immediate assistance if required, and
3. The radiographer is able to observe the assistant's performance directly.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-525. Notification of Field Work

Each day radioactive material is used for industrial radiography, a licensee shall notify the Agency of any planned field radiography. The notice shall be in writing and specify the location of the field work, the name of the supervising individual at the job site, and the expected duration of the work at the job site listed in the notice. A facsimile that provides the required information is sufficient notice.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-526. Reserved

#### R12-1-527. Reserved

#### R12-1-528. Reserved

#### R12-1-529. Reserved

#### R12-1-530. Reserved

#### R12-1-531. Security

During each radiographic operation, the radiographer or radiographer's assistant shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Article 1, unless:

1. The high radiation area is equipped with a control device or an alarm system as prescribed in R12-1-420(A), or
2. The high radiation area is locked to protect against unauthorized or accidental entry.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

#### R12-1-532. Posting

Notwithstanding any provisions in R12-1-430, areas in which radiography is being performed shall be conspicuously posted as required by R12-1-429(A) and (B).

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3).

#### R12-1-533. Radiation Surveys

- A.** A licensee shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R12-1-504.
- B.** Using a survey instrument that complies with subsection (A), the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure before approaching the device or the guide tube. The survey shall be performed to determine that the sealed source is in the shielded

position before the radiographer or radiographer's assistant exchanges films, repositions the exposure head, or dismantles the equipment.

- C. The licensee shall conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged or the device is placed in a storage area, as defined in R12-1-102, to ensure that the sealed source is in the shielded position.
- D. The licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage under subsection (C), if that survey is the last one performed during the workday. Each record shall be maintained for three years after the record is made.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-534. Repealed

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-535. Notifications

- A. In addition to the reporting requirements specified in Article 4, each licensee shall provide a written report to the Agency if any of the following incidents involving radiography equipment occur:
  1. Unintentional disconnection of the source assembly from the control cable;
  2. Inability to retract the source assembly to the fully shielded position or secure it in this position; or
  3. Failure of any component (critical to safe operation of the device) to properly perform its intended function;
- B. A licensee shall include the following information in any report submitted under this Section, regarding radiography equipment, or Article 4, regarding an overexposure, if the report concerns the failure of safety components of radiography equipment:
  1. A description of the equipment problem;
  2. Cause of the incident, if known;
  3. Name of manufacturer and model number of the equipment involved in the incident;
  4. Place, date, and time of the incident;
  5. Actions taken to establish normal operations;
  6. Corrective actions taken or planned to prevent recurrence; and
  7. Qualifications of personnel involved in the incident.
- C. Any licensee that conducts radiographic operations, or stores radioactive material at a location not listed on the license or for a period longer than 180 days during a calendar year, shall notify the Agency of these activities before the 180 days has elapsed.

#### Historical Note

New Section made by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1).

**R12-1-536. Reserved**

**R12-1-537. Reserved**

**R12-1-538. Reserved**

#### R12-1-539. Permanent Radiographic Installations

- A. If a licensee maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R12-1-102, the licensee shall ensure that each entrance, used for personnel access to the high radiation area, has either:
  1. An entrance control device of the type described in R12-1-420(A)(1) that reduces the radiation level upon entry into the area, or
  2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The licensee shall ensure that the visible signal is actuated by radiation if a source is exposed and the audible signal is actuated if someone attempts to enter the installation while a source is exposed.
- B. A licensee with an alarm signal shall test the alarm signal for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. A licensee with an entrance control device shall test the device monthly. If an entrance control device or alarm signal is operating improperly, the licensee shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The licensee may continue to use the facility during this seven-day period, if the licensee implements continuous surveillance requirements of R12-1-509 and uses an alarming rate meter.
- C. A licensee shall maintain each record an alarm system or entrance control device test for three years after the record is made.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-540. Location of Documents and Records

- A. A licensee shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at a location specified under R12-1-502(I).
- B. A licensee shall maintain a copy of each record listed below at each field station and temporary job site:
  1. The license that authorizes use of radioactive material;
  2. A copy of Articles 4, 5, and 10 of this Chapter;
  3. Utilization logs for each radiographic exposure device dispatched from that location, as required by R12-1-507;
  4. Records of equipment problems identified in daily checks of equipment, as required by R12-1-508(A);
  5. Records of alarm system and entrance control checks as required by R12-1-539;
  6. Records of direct-reading dosimeters, such as pocket dosimeters and electronic personnel dosimeters as required by R12-1-523;
  7. Operating and emergency procedures as required by R12-1-522;
  8. A report on the most recent calibration of the radiation survey instruments in use at the site as required by R12-1-504;
  9. A report on the most recent calibration of each alarm rate meter, and operability check of each pocket dosimeter and electronic personnel dosimeter as required in R12-1-523;
  10. Most recent survey record as required by R12-1-533;

11. The shipping papers for the transportation of radioactive material required by 10 CFR 71.5, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Agency (this incorporation contains no future editions or amendments); and
12. If operating under reciprocity in accordance with R12-1-320, a copy of the NRC or Agreement State license authorizing the use of radioactive materials.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-541. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective August 10, 1994 (Supp. 94-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Section repealed by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (05-1).

**R12-1-542. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective August 10, 1994 (Supp. 94-3). New Section made by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Section repealed by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (05-1).

**Appendix A. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective December 20, 1985 (Supp. 85-6). Repealed effective April 2, 1990 (Supp. 90-2).

**R12-1-543. Training**

- A. A licensee shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
  1. A licensee shall provide the Agency with proof of an individual's certification and a written request that the individual be added to a license as a certified radiographer.
  2. A licensee shall maintain proof of certification at the job site where a radiographer is performing field radiography.
  3. A licensee that employs certified radiographers in Arizona shall ensure that:
    - a. Each radiographer has obtained initial certification within the last five years, and
    - b. An uncertified radiographer works only as a radiographer's assistant until certified.
  4. A radiographer shall recertify every five years by:
    - a. Taking an approved radiography certification examination in accordance with this subsection; or
    - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
6. A radiographer shall provide the licensee with proof of certification in the form of a card issued by the certifying organization that contains:
  - a. A picture of the certified radiographer,
  - b. The radiographer's certification number,
  - c. The date the certification expires, and
  - d. The radiographer's signature.
- B. A licensee shall not allow an individual to act as a radiographer until the individual:
  1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R12-1-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with Agency; the Agency license or licenses under which the radiographer will perform industrial radiography; and the licensee's operating and emergency procedures;
  2. Has demonstrated an understanding of the licensee's license and operating and emergency procedures by successfully completing a written or oral examination that covers the relevant material;
  3. Has received training in:
    - a. Use of the licensee's radiographic exposure devices and sealed sources,
    - b. Daily inspection of devices and associated equipment, and
    - c. Use of radiation survey instruments; and
  4. Has demonstrated an understanding of the use of radiographic exposure devices, sources, survey instruments, and associated equipment described in subsection (B)(3) by successfully completing a practical examination covering this material.
- C. A licensee shall not allow an individual to act as a radiographer's assistant until the individual:
  1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R12-1-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with Agency; the Agency license or licenses under which the radiographer's assistant will perform industrial radiography; and the licensee's operating and emergency procedures;
  2. Has developed competence to use, under the personal supervision of the radiographer, the licensee's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments; and
  3. Has demonstrated understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and has demonstrated competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A licensee shall provide refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed 12 months.



- E. Unless an individual serves as both a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and to ensure that the Agency's rules and license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:

1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
2. If a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months, the radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and the radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before participating in a radiographic operation.

- F. A licensee shall maintain records of the training required in this Section including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).

- G. A licensee shall include the following subjects in the training required under subsection (A):

1. Fundamentals of radiation safety, including:
  - a. Characteristics of gamma radiation,
  - b. Units of radiation dose and quantity of radioactivity,
  - c. Hazards of exposure to radiation,
  - d. Levels of radiation from licensed material, and
  - e. Methods of controlling radiation dose (time, distance, and shielding);
2. Radiation detection instruments, including:
  - a. Use, operation, calibration, and limitations of radiation survey instruments;
  - b. Survey techniques; and
  - c. Use of personnel monitoring equipment;
3. Equipment topics, including:
  - a. Operation and control of radiographic exposure equipment, use of remote handling equipment, and use of storage containers, using pictures or models of source assemblies (pigtailed);
  - b. Storage, control, and disposal of licensed material; and
  - c. Inspection and maintenance of equipment;
4. The requirements of pertinent Agency rules; and
5. Case histories of accidents in radiography.

- H. A licensee shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).

- I. A licensee shall maintain the following records for three years after each record is made:

1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of the items

checked during the inspection and any non-compliance observed by the RSO.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

### Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

#### I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiographer certification an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals and determine sanctions;
- I. Have written procedures describing all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Agency, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Agency of its procedures for choosing examination sites and providing a favorable examination environment.

#### II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
  1. Obtain training in the subjects listed in R12-1-543(G) or equivalent NRC or Agreement State regulations, and

2. Satisfactorily complete a written examination that covers these subjects;
- B.** Requires an applicant for certification to provide documentation demonstrating that the applicant has:
  1. Received training in the subjects listed in R12-1-543(G) or equivalent NRC or Agreement State regulations;
  2. Satisfactorily completed the on-the-job training required in R12-1-543(A); and
  3. Received verification by an Agreement State or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;
- C.** Provides procedures that protect examination questions from disclosure;
- D.** Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E.** Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F.** Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

### III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A.** Is designed to test an individual's knowledge and understanding of the subjects listed in R12-1-543(G);
- B.** Is written in a multiple-choice format; and
- C.** Has psychometrically valid questions drawn from a question bank and based on the material in R12-1-543(G).

### Historical Note

New Appendix made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

## ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

### R12-1-601. Repealed

### Historical Note

Former Rule Section F.1; Former Section R12-1-601 repealed, new Section R12-1-601 adopted effective June 30, 1977 (Supp. 77-3). Repealed effective August 8, 1986 (Supp. 86-4).

### R12-1-602. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Added filter" means the filter added to the inherent filtration.

"Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) that affords equivalent attenuation, under specified conditions, as the material in question. (The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper).

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

"Attenuation block" means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm (7.9 inches by 7.9 inches by 1.5 inches) of type 1100 aluminum alloy or other materials that afford equivalent attenuation.

"Automatic exposure control" means a device that automatically controls one or more technique factors in order to obtain at a preselected location or locations a required quantity of radiation.

"Barrier" (See "Protective barrier")

"Beam axis" means a line from the source through the center of the x-ray field.

"Beam-limiting device" means a device that provides a means to restrict the dimensions of the x-ray field.

"C-arm x-ray system" means an x-ray system that has the image receptor and x-ray tube housing assembly connected by a common mechanical support system to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

"Changeable filter" means any filter, exclusive of inherent filtration, which can be removed from the useful beam by an electronic, mechanical, or physical process.

"Cinefluorography" means fluorography that uses a movie camera to record fluorograph images on film for later playback.

"Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations.

"Collimator" means an adjustable device, generally made of lead, that is fixed to an x-ray tube housing to intercept or collimate the useful beam and, if not made of lead, has a lead equivalency of not less than that of the tube housing assembly.

"Compression device" means a device used to bring object structures closer to the image plane of a radiograph and make a part of the human body a more uniform thickness so the optical density of the radiograph will be more uniform.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data. For purposes of these rules this term has the same meaning as "CT."

"Contact therapy system" means that the x-ray tube port is put in contact with or within 5 centimeters (2 inches) of the surface being treated.

"Control panel" means that part of the x-ray machine where switches, knobs, push-buttons, or other hardware necessary for manually setting the technique factors are located.

"Cooling curve" means the graphical relationship between heat units stored and cooling time.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structure, frame, and cover which hold or enclose these components.

"Dead-man switch" means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of a human or animal body for the purpose of diagnosis or visualization.

“Direct scattered radiation” means scattered radiation that has been deviated in direction only by materials irradiated by the useful beam (see “Scattered radiation”).

“Entrance exposure rate” means the roentgens per unit time at the point where the center of the useful beam enters the patient.

“Equipment” (See “X-ray equipment”)

“Filter” means material placed in the useful beam to absorb undesirable radiation.

“Fluoroscopic imaging assembly” means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor or receptors such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material that provides a linkage between the image receptor and diagnostic source assembly.

“Fluoroscopic system” means a radiographic x-ray system used to directly visualize internal structure, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease, or the performance of other medical procedures.

“Focal spot” means the region of the anode target in an x-ray tube where electrons from the cathode interact to produce x-rays.

“General purpose radiographic x-ray system” means any radiographic x-ray system that, by design, is not limited to radiographic examination of a specific anatomical region.

“Gonadal shield” means a protective barrier for the testes or ovaries.

“Grid” means a device used to improve the image detail in a radiograph by reducing the intensity of x-ray scatter radiation exiting the film side of the patient.

“Half-value layer” or “HVL” means the thickness of a specified material that attenuates the beam of radiation to an exposure rate that is one-half of its original value. In this definition, the contribution of any scattered radiation, other than that which is present initially in the beam, is excluded.

“Healing arts radiography” means the application of x-radiation to human patients for diagnostic or therapeutic purposes by a licensed practitioner or a person certified in accordance with R12-1-603(B)(1), at the direction of a licensed practitioner. Healing arts radiography includes:

- Positioning the x-ray beam with respect to the patient,
- Anatomical positioning of the patient,
- Selecting exposure factors, or
- Initiating the exposure.

“Healing arts screening” means the application of radiation from an x-ray machine to a human for the detection or evaluation of health indications when the tests are not specifically and individually ordered by a licensed practitioner.

“Image intensifier” means an electronic device, installed in an x-ray system housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

“Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray

photons either into a visible image or into another form which can be made into a visible image by further transformation.

“Inherent filtration” means the filtration of the useful beam by permanently installed components of the tube housing assembly.

“Kilovolts peak” or “kVp” (See “Peak tube potential”)

“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means all radiation emanating from the tube housing except the useful beam and radiation produced when the exposure switch or timer is not activated.

“Leakage technique factors” means the technique factors associated with the diagnostic source assembly that are used in measuring leakage radiation. Included are:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

For all other source assemblies, the maximum-rated peak tube potential and maximum-rated continuous tube current for the maximum-rated peak tube potential.

“mA” means milliamperes.

“Mammographic x-ray system” means an x-ray system that is specifically engineered to image human breasts.

“mAs” means milliamperes second.

“Mobile equipment” (See “X-ray equipment”)

“Peak tube potential” means the maximum value of the potential difference across the x-ray tube during an exposure.

“Phantom” means a volume of material that behaves in a manner similar to tissue with respect to the attenuation and scattering of radiation. (i.e. “Breast phantom” means an artificial test object that simulates the average composition of, and various structures in the breast.)

“Phototimer” (See “Automatic exposure control”)

“Portable equipment” (See “X-ray equipment”)

“Primary protective barrier” (See “Protective barrier”)

“Protective apron” means an apron made of radiation, absorbing material used to reduce radiation exposure.

“Protective barrier” means a barrier of radiation-absorbing material used to reduce radiation exposure.

“Primary protective barrier” means the material, excluding filters, placed in the useful beam.

“Secondary protective barrier” means the material which attenuates stray radiation.

“Protective glove” means a glove made of radiation-absorbing material used to reduce radiation exposure.

“Radiologic physicist” means an individual who:

Is certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;

Possesses documentation of state approval;

Holds a master’s degree or higher in a physical science; and

Meets the training and certification requirements in R12-1-614(C)(1)(c).

“Scattered radiation” means radiation that, during passage through matter, has been deviated in direction. (See “Direct scattered radiation”)

“Screen” or “intensifying screen” means a device that converts the energy of the x-ray beam into visible light that interacts with the radiographic film, forming a latent image, or contains photostimulable phosphor plates that upon exposure, emit visible or nonvisible light to create an image.

“Secondary protective barrier” (See “Protective barrier”)

“Shutter” (See “Collimator”)

“Source” means the focal spot of the x-ray tube.

“Source-to-image receptor distance” or “SID” means the distance from the source to the center of the input surface of the image receptor.

“Spot check” means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid. Also, a spot film may be taken to improve visualization by arresting motion and to document medical observations. Note that in some cases, a film may not be created.

“Stationary equipment” (See “X-ray equipment”)

“Stray radiation” means the sum of leakage and scattered radiation.

“System” (See “X-ray system”)

“Technique chart” means a tabulation of technique factors.

“Technique factors” means the following conditions of operation:

For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and number of x-ray pulses in mAs;

For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current, exposure time in mAs, when the scan time and exposure time are equivalent; and

For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

“Treatment simulator” means a diagnostic x-ray system that duplicates a medical particle accelerator or other teletherapy in terms of its geometrical, mechanical, and optical qualities; the main function of which, is to display radiation treatment fields so that the target volume may be accurately included in the area of irradiation without delivering excess radiation to surrounding normal tissue.

“Tube” means x-ray tube unless otherwise specified.

“Tube housing assembly” means the tube housing with the tube installed. It includes high-voltage or filament transformers and other elements contained within the tube housing.

“Tube rating chart” means the set of curves that specify the rated limits of operation of the tube in terms of the technique factors.

“Useful beam” means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode that causes the system to produce radiation.

“Visible area” means that portion of the input surface on the image receptor over which incident x-ray photons are producing a visible image.

“X-ray equipment” means an x-ray system, subsystem, or component described further by the following terms:

“Mobile” means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

“Portable” means x-ray equipment designed to be hand-carried.

“Stationary” means x-ray equipment installed in a fixed location.

“Transportable mobile” means x-ray equipment installed in a vehicle or trailer.

“X-ray system” means an assemblage of components for the controlled production of x-rays. It includes, at minimum, an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components that function with the system are considered integral parts of the system.

“X-ray tube” means any electron tube that is designed for the conversion of electrical energy into x-ray energy. For purposes of the rules contained in 12 A.A.C. 1, this term is synonymous with “tube.”

#### Historical Note

Former Rule Section F.2; Former Section R12-1-602 repealed, new Section R12-1-602 adopted effective June 30, 1977 (Supp. 77-3). Amended effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-603. Operational Standards, Shielding, and Darkroom Requirements

A. A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the supplies used in connection with the equipment unless the supplies and equipment, when properly placed in operation and properly used, meets the requirements of 12 A.A.C. 1.

## Radiation Regulatory Agency

- B.** A registrant shall direct the operation of x-ray machines under the registrant's control and assure that all of the following provisions are met in the operation of x-ray machines:
1. The registrant shall not permit any individual to engage in the practice of "Healing Arts Radiography" using equipment under the registrant's control, unless the individual possesses a valid certificate issued by, or is exempt from, the Medical Radiologic Technology Board of Examiners.
  2. The registrant shall maintain records documenting compliance with subsection (B)(1) for each individual using equipment under the registrant's control practicing "Healing Arts Radiography."
  3. The registrant shall provide safety rules to each individual operating x-ray equipment under the registrant's control, including any restrictions in operating procedures necessary for the safe use of the equipment and require that the operator demonstrate familiarity with 12 A.A.C. 1.
- C.** Shielding
1. Each registrant shall provide each installation with primary and secondary protective barriers that are necessary to assure compliance with 12 A.A.C. 1, Article 4.
  2. A registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in Report No. 147 Structural Shielding Design for Medical X-ray Imaging Facilities, November 19, 2004, by the National Council on Radiation Protection and Measurements, (NCRP), NCRP Publications, 7910 Woodmount Ave., Suite 400, Bethesda, MD 20814-3095. This report is incorporated by reference and available under R12-1-101. The incorporated material contains no future editions or amendments. Copies of the report are available from NCRP Publications: online at <http://www.ncrppublications.org>; toll free at (800) 229-2652 (Ext. 25); or e-mail at [NCRPpubs@NCRPonline.org](mailto:NCRPpubs@NCRPonline.org). Each registrant shall use this incorporated material to provide sufficient shielding to prevent a public exposure that exceeds the limits in R12-1-416.
  3. A registrant shall:
    - a. Mount each lead barrier so that the barrier will not sag or cold flow because of its own weight and protect the barrier from damage;
    - b. Use barriers designed so that joints between different ends of protective material do not impair the overall protection of the barriers;
    - c. Use barriers designed so that joints at the floor and ceiling do not impair the overall protection of the barriers;
    - d. Use windows, window frames, doors, and door frames that have the same lead equivalence required in the adjacent walls; and
    - e. Cover holes in protective barriers so that overall attenuation is not impaired.
  4. A registrant shall also meet the structural shielding requirements in R12-1-607(C), if the x-ray system in question is not fluoroscopic or intraoral.
- D.** Film Processing and Darkroom Requirements. A registrant shall:
1. Ensure that the darkroom is light-tight and use proper safe-lighting, so that any film type in use is exposed in a cassette to x-ray radiation sufficient to produce an optical density from 1 to 2 when processed, the film is exposed in the darkroom for two minutes, and exposure will not produce an increase in optical density greater than 0.1 (0.05 for mammography). (A processor with a daylight loader satisfies this requirement.);
  2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open packages is stored in a light-tight container;
  3. Ensure that film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
  4. Ensure that film cassettes contain film and intensifying screens that have the same sensitivity;
  5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
  6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and used in the darkroom;
  7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer; and
  8. Ensure that outdated film is not used for diagnostic radiographs.

**Historical Note**

Former Rule Section F.3; Former Section R12-1-603 repealed, new Section R12-1-603 adopted effective June 30, 1977 (Supp. 77-3). Amended effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-604. General Procedures**

- A.** Each registrant shall ensure the following procedural requirements are met in the operation of x-ray equipment:
1. An x-ray machine which does not meet the provisions of this Chapter shall not be operated for diagnostic or therapeutic purposes, unless specifically exempted by the Agency.
  2. Except for patients who cannot be moved out of the room, only the individuals required for the radiological procedure or in training may be present in the room during radiographic exposure, and all the following requirements apply:
    - a. All individuals shall be positioned such that no part of the body, including the extremities not protected by 0.5 mm lead equivalent, will be struck by the useful beam.
    - b. Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.
    - c. Individuals, other than the patient to be examined, who cannot be removed from the room during mobile or portable radiography shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 millimeters lead equivalent or shall be so positioned that the nearest portion of the body is at least 2 meters (6.5 feet) from both the tube head and the nearest edge of the image receptor.
    - d. If a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation that could result in that individual receiving 10 percent of the maximum permissible dose as defined in Article 4 of this Chapter, the registrant shall provide

- additional protective devices as specified by the Agency.
3. An individual shall not be exposed to the useful beam except for a healing arts purpose authorized by a licensed practitioner of the healing arts. The following acts are prohibited:
    - a. Exposure of an individual without meeting the required healing art requirements and without a valid directive from a licensed practitioner;
    - b. Exposure of an individual for training, demonstration, or other non-healing arts purpose;
    - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Agency after submitting to the Agency the information listed in Appendix A of this Article. (If any information submitted to the Agency changes, the registrant shall immediately notify the Agency of the changes.);
    - d. Routinely holding film or a patient during an exposure to x-ray radiation; or
    - e. Exposure of an individual to fluoroscopy as a positioning method for general purpose radiological procedures.
  4. All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits specified in Article 4. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
  5. The registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis, as follows:
    - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
    - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
    - c. A record of the annual reliability and integrity check and any equipment replacement shall be maintained for three years.
- B.** The registrant shall maintain the following records for each x-ray machine:
1. Survey, calibration, maintenance, and modification records regarding the x-ray machine or room, which include the name of the person who performed the service; and
  2. Correspondence with the Agency regarding the x-ray machine facility.
- B.** The registrant shall prevent radiation emitted by a component other than the diagnostic source assembly from exceeding 516 nC/kg (2 milliroentgens) in one hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. The Agency shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- C.** Beam quality.
1. The registrant shall prevent the useful beam half-value layer (HVL) for diagnostic x-ray given x-ray tube potential from falling below the values shown in Table I. If it is necessary to determine the half-value layer at an x-ray tube potential that is not listed in Table I, the registrant shall use linear interpolation or extrapolation to make the determination.

**Table I**

<i>Design operating range (kilovolts peak)</i>	<i>Measured potential (kilovolts peak)</i>	<i>Half-value layer (millimeters of aluminum)</i>
Below 51	30	0.3
	40	0.4
	50	0.5
51 to 70	51	1.2
	60	1.3
	70	1.5
Above 70	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2
	130	3.5
	140	3.8
	150	4.1

2. If the registrant demonstrates that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II, the registrant is considered to have met the criteria in subsection (C)(1).

**Table II - Filtration Required vs. Operating Voltage**

<i>Operating Voltage (kVp)</i>	<i>Total Filtration (inherent plus added) (millimeters aluminum equivalent)</i>
Below 51	0.5 millimeters
51 - 70	1.5 millimeters
Above 70	2.5 millimeters

3. The registrant shall use beryllium window tubes that have a minimum of 0.5 millimeters aluminum equivalent filtration permanently mounted in the useful beam.
4. For capacitor energy storage equipment, the Agency shall determine compliance with the maximum quantity of charge per exposure.
5. When determining the minimum aluminum equivalent filtration, the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-605. X-ray Machine Standards**

- A.** A registrant shall prevent leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source assembly from exceeding 25.8  $\mu\text{C/kg}$  (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors. The Agency shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).

tabletop when the tube is mounted “under the table” and inherent filtration of the tube).

- D. Multiple tubes. If two or more radiographic tubes are controlled by one exposure switch, the operator shall clearly indicate which tube or tubes have been selected before initiation of the exposure, activating one light on the x-ray control panel and a second light at or near the tube housing assembly, each indicating the tube or tubes that have been selected.
- E. Mechanical support of tube head. The registrant shall adjust the tube housing assembly supports so that the tube housing assembly will remain stable during an exposure, unless the tube housing movement is a designed function of the x-ray system.
- F. Exposure reproducibility. The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is satisfied if the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E<sub>max</sub>) and minimum exposure (E<sub>min</sub>) when four exposures are made at identical technique factors,  $[E \geq 5(E_{\text{max}} - E_{\text{min}})]$ .
- G. Accuracy deviation. A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufacturer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10 percent of the indicated kVp value and the measured time duration is not within 20 percent of the indicated time.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsections (A) and (B) effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems

##### A. Useful beam limitation. A registrant shall:

1. Provide beam-limiting devices that restrict the entire cross section of the useful beam to less than the area of the primary barrier at any Source-to-Image Receptor Distance (SID);
2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification does not extend beyond the visible area of the image receptor at any SID;
3. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and automatic shutter control does not exceed the diameter of the image receptor at any SID;
4. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control does not exceed the diameter of the image receptor with the fluoroscopic imaging assembly positioned at the maximum usable distance above the table top; and
5. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control, where the fluoroscopic tube is above the table top, does not exceed the diameter of the image receptor with the shutters open to the fullest extent, and at the maximum SID which the fluoroscopic tube is capable of producing radiation.

##### B. Fluoroscopic primary protective barrier. A registrant shall:

1. Provide the fluoroscopic imaging assembly with a primary protective barrier that always intercepts the entire cross section of the useful beam at any SID.
2. Ensure that the fluoroscopic tube is not capable of producing radiation unless the primary protective barrier is in a position to intercept the entire cross section of the useful beam.
3. Ensure that fluoroscopic radiation production automatically terminates if the primary protective barrier is removed from the useful beam.
4. Ensure that the fluoroscopic primary protective barrier meets the following requirements for attenuation of the useful beam:
  - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier is not less than 1.5 millimeters for fluoroscopes that produce less than 100 kVp, 1.8 millimeters for fluoroscopes that produce at least 100 kVp but less than 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 microcoulombs per kilogram (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for fluoroscopes that produce less than 125 kVp or 2.7 millimeters for fluoroscopes that produce 125 or more kVp.
  - b. For fluoroscopic systems that use image intensification, the exposure rate, due to transmission through the primary protective barrier, does not exceed 516 nC/kg (2 milliroentgens) per hour at 10 centimeters (4 inches) from any accessible surface of the fluoroscopic imaging assembly, beyond the plane of the image receptor for each 258  $\mu\text{C/kg}$  (1 roentgen) per minute of entrance exposure rate.
  - c. Compliance with subsections (B)(4)(a) and (b) is determined with the image receptor positioned 35.5 centimeters (14 inches) from the panel or table top, at normal operating technical factors and with the attenuation block in the useful beam for systems with image intensification.

##### C. Entrance exposure rate limits. A registrant shall ensure that:

1. The exposure rate, measured at the point where the center of the useful beam enters the patient does not exceed 2.6 mC/kg (10 roentgens) per minute at any combination of tube potential and current, except during recording of fluoroscopic images or if provided with optional high-level control.
2. If provided with optional high-level control, the equipment is not operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high-level control is activated, in which case an exposure rate in excess of 5.2 mC/kg (20 roentgens) per minute is prohibited.
  - a. Special means of activation of high-level controls, such as additional pressure applied continuously by the operator, are required to avoid accidental use.
  - b. A continuous signal audible to the fluoroscopist is required to indicate that the high-level control is being employed.

3. The Agency shall determine compliance with subsections (C)(1) and (2) as follows:
  - a. Remove grids and compression devices from the useful beam during the measurement;
  - b. If the source is below the table, measure the exposure rate 1 centimeter above the table top or cradle; and
  - c. If the source is above the table, measure the exposure rate 30 centimeters (11.8 inches) above the table top with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
  - d. For fluoroscopy involving a mobile C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscopic imaging assembly;
  - e. For fluoroscopy involving a C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscope imaging assembly, with the x-ray source positioned at any available SID, provided that the end of the beam-limiting device or spacer is not closer than 30 centimeters (11.8 inches) from the input surface of the fluoroscopic image assembly; and
  - f. For a lateral-type fluoroscope, measure the exposure rate 15 centimeters (5.9 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters (5.9 inches) to the centerline of the x-ray table.
- D. The registrant shall ensure that the source-to-skin distance is not less than:
  1. 38 centimeters (15 inches) on stationary fluoroscopes installed after January 2, 1996;
  2. 35.5 centimeters (14 inches) on stationary fluoroscopes which are in operation before January 2, 1996;
  3. 30 centimeters (11.8 inches) on all mobile fluoroscopes; and
  4. 20 centimeters (8 inches) for image-intensified fluoroscopes used for a specific surgical application. The registrant shall follow any precautionary measures in the users operating manual.
- E. Each fluoroscopic system installation is subject to all of the following requirements for the control of stray radiation. A registrant shall:
  1. Provide a shielding device of at least 0.25 millimeter lead equivalent for covering the Bucky-slot during fluoroscopy;
  2. Except for fluoroscopy performed using portable or mobile C-arm x-ray systems or during surgical procedures or cardiac catheterization, provide protective drapes, or hinged or sliding panels of at least 0.25 millimeters lead equivalent, between the patient and fluoroscopist to intercept scattered radiation that would otherwise reach the fluoroscopist and others near the machine, but not substitute drapes and panels for a protective apron; and
  3. Ensure that protective aprons of at least 0.25 millimeter lead equivalent are worn in the fluoroscopy room by each person, except the patient, whose body is likely to be exposed to 50  $\mu$ Sv/hr (5 mR/hr) or more.
- F. Exposure control. A registrant shall:
  1. Ensure that activation of the fluoroscopic tube is controlled by a "dead-man" switch;
  2. Provide a manual reset cumulative timing device, which is activated only during production of radiation in the fluoroscopic mode, to indicate elapsed time by an audible signal or terminate production of radiation;
  3. Provide a device for exposure control in the "spot film" mode that terminates exposure either automatically, or after a preset time interval, preset number of pulses, preset product of current and time, or preset exposure; and
  4. Ensure that the x-ray tube potential and current are continuously indicated.
- G. A registrant shall provide systems used for mobile fluoroscopy with image intensification.
- H. Fluoroscopic treatment simulators. Simulators are exempt from subsections (A) through (G). A registrant shall:
  1. Use a beam limiting device that restricts the beam to the area of clinical interest.
  2. Include and label devices for settings or physical factors, such as kVp, mA, or exposure time on the control panel;
  3. Ensure that the fluoroscopic exposure switch or switches are of the "deadman" type;
  4. Ensure that each person whose presence is necessary is in the simulator room during exposure and protected with a lead apron of at least 0.5 millimeter lead equivalent or a portable shield. Any person who places their hands in the useful x-ray beam shall wear lead gloves; and
  5. Ensure that the operator stands behind a barrier and is able to observe the patient during simulator exposures.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-606 repealed, new Section R12-1-606 adopted effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Fluoroscopic and Dental Intraoral Radiographic Systems

- A. Useful beam limitation. A registrant shall:
  1. Provide a means to restrict the useful beam to the area of clinical interest for any combination of SID and image receptor size employed.
  2. Ensure that beam-limiting devices meet the following requirements:
    - a. Devices that project a circular radiation field restrict the diameter of the useful beam, not to exceed the diagonal dimension of the image receptor by greater than 2 percent of the SID;
    - b. Devices that project a rectangular or square radiation field restrict the useful beam to the longitudinal and transverse dimensions of the image receptor to within 2 percent of the SID;
    - c. Beam limiting devices that do not incorporate light beams to define the projected radiation field are clearly labeled, indicating the SID and image receptor size at which each device complies with the applicable requirements of subsection (A)(2)(a) or (b);
    - d. Adjustable beam-limiting devices installed after July 31, 1971, incorporate light beams to define the projected dimensions of the useful beam and provide an



average illumination of not less than 100 lux (9 foot-candles) at 1 meter (3.3 feet) or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field; and

- e. All beam-limiting devices installed, on general purpose fixed and mobile radiographic systems, provide stepless means of continuous adjustment of the projected radiation field size.

3. Provide a means to align the center of the radiation field to the center of the image receptor to within 2 percent of the SID.

**B. Radiation exposure control.** A registrant shall:

1. Provide a means to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or a preset exposure to the image receptor. The registrant shall ensure that it is not possible to make an exposure when the exposure control device is set to a "zero" or "off" position if either position is provided.
2. Ensure that the exposure switch is a "dead-man" switch, and except for those used with "spot-film" devices in fluoroscopy, is arranged so that it cannot be conveniently operated outside a shielded area.
3. Provide x-ray systems with automatic exposure control, which indicates at the control panel when this mode is selected, and a visual and audible signal, which indicates termination of the exposure.
4. Use a control panel that includes:
  - a. A device (usually a milliammeter) that will give a positive indication during radiation production; and
  - b. Control setting indicators or meters that indicate the appropriate technical factors: kVp, mAs, mA, or exposure time, and any special mode selected for the exposure.

**C. Structural shielding.** A registrant shall:

1. Ensure that all wall, floor and ceiling areas struck by the useful beam have primary protective barriers. Primary protective barriers in walls shall extend from the finished floor to a minimum height of 2.13 meters (7 feet);
2. Ensure that secondary protective barriers are provided in all wall, floor, and ceiling areas that do not have primary protective barriers or where the primary protective barrier requirements are lower than the secondary barrier requirements;
3. Ensure that the operator's station is behind a protective barrier sufficient to ensure compliance with R12-1-408, R12-1-414, and R12-1-416, and the operator is able to communicate with the patient from the operator's station.
4. Provide a window of transparent material equal in attenuation to that required by the adjacent barrier, or a mirror system, that is large enough and placed so that the operator can see the patient during exposure without having to leave the protected area.

**D. Operating procedures.** A registrant shall:

1. Use mechanical supporting or restraining devices, if a patient must be held in position for radiography. If the patient must be held by an individual, the registrant shall ensure that the individual is protected with appropriate shielding devices, such as protective gloves and apron, and is positioned so that no part of the body of the individual holding the patient is struck by the useful beam;
2. Ensure that only individuals required for the radiographic procedure are in the radiographic room during exposure,

and, except for the patient, all these individuals are equipped with protective devices;

3. Restrict the useful beam to the clinical area of interest;
4. Provide a chart in the vicinity of the diagnostic x-ray system's control panel that specifies, for all routine examinations performed with the system, the following information:
  - a. Patient's anatomical size and technique factors;
  - b. Type and size of the film or film screen combination;
  - c. Type and focal distance of the grid, if any;
  - d. X-ray source-to-image receptor distance; and
  - e. Type and location of gonad shielding.
5. Provide documentation in the order specified:
  - a. The patient's identity;
  - b. The x-ray examination, as recorded in a radiographic log;
  - c. The date the examination is performed;
  - d. The number of projections (if applicable); and
  - e. A method of identifying the individual who performed the examination.
6. The registrant shall maintain in chronological order, the documentation required in subsection (D)(5) in written or readily available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-607 repealed, new Section R12-1-607 adopted effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-608. Mobile Diagnostic Radiographic and Fluoroscopic Systems, Except Dental Intraoral Radiographic Systems**

**A. Equipment**

1. All requirements of R12-1-607(A) and (B) apply.
2. For mobile radiographic units the registrant shall provide a "dead-man" switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures.
3. A registrant shall ensure that a cone, spacer frame, or inherent provision is made so that the equipment is not operated at source-skin distances of less than 20.3 centimeters (8 inches).

**B. Structural shielding.** If a mobile unit is used routinely in one location, it is considered a fixed installation subject to the shielding requirements in R12-1-603(C), and R12-1-607(C).

**C. Operating procedures**

1. All provisions of R12-1-607(D) apply.
2. An individual who operates a mobile x-ray system shall comply with R12-1-419(B).

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsections (A) and (C) effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-609. Chest Photofluorographic Systems**

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsections (A) and (C) effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

**R12-1-610. Dental Intraoral Radiographic Systems****A. Equipment.** A registrant shall:

1. Use a protective tube housing of diagnostic type;
2. Use diaphragms or cones for restricting the useful beam and to provide the same degree of protection as the housing. The diameter of the useful beam at the end of the cone or spacer frame shall not be more than 7.6 centimeters (3 inches) for intraoral radiography;
3. Ensure that a cone or spacer frame provides a source-to-skin distance of not less than 17.8 centimeters (7 inches) with apparatus operating above 50 kVp or 10 centimeters (4 inches) with apparatus operating at 50 kVp or below for intraoral radiography;
4. Provide a timer to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor;
5. Ensure that it is not possible to make an exposure if the timer is set to the "zero" or "off" position;
6. Ensure that the tube head remains stationary if placed in the exposure position;
7. Ensure that the exposure initiating device is a "dead-man" switch; and
8. Use a control panel that includes:
  - a. A means to provide visual or audible indication, detectable at or from the operator's position, during x-ray production or exposure termination; and
  - b. Indication of technique factors for kVp, mA, exposure time, and any special mode that may be selected for the exposure.
9. Use technique factors, where deviation of measured or indicated values for kVp and exposure time do not exceed the limits specified by the manufacturer. In the absence of the manufacturer's specifications, the deviation shall not exceed plus or minus 10 percent of the indicated value for kVp and plus or minus 20 percent for exposure time duration.
10. For a digital system, use digital radiography techniques that permit reducing x-ray beam on-time to 25 percent of the exposure time required for "D" speed film, reducing radiation to the patient by the same rate.

**B. Structural shielding.** The registrant shall:

1. Provide dental installations with primary and secondary barriers to ensure compliance with the personnel exposure requirements in Article 4 of this Chapter;
2. Install primary protective barriers between rooms or areas if dental x-ray units are used in adjacent rooms or areas;
3. Provide each installation with a protective barrier for the operator or arrange the installation so that the operator can stand at least 1.82 meters (6 feet) from the patient and well away from the useful beam;
4. Arrange the operator's position to allow visual contact with the patient during exposure; and

5. Comply with fixed installation requirements, if a mobile unit is used routinely in one location.

Note: In many cases structural materials of ordinary walls suffice as a protective barrier without addition of special shielding material.

**C. Operating procedures**

1. A dentist or other persons shall not hold patients or films during exposure. Only persons required for the radiographic procedure are allowed in the radiographic room during exposures.
2. An operator shall stand at least 1.82 meters (6 feet) from the patient or behind a protective barrier during each exposure.
3. An operator shall ensure that only the patient is in the useful beam.
4. The licensed practitioner or other person shall not hold the tube housing or the cone during the exposure.
5. A registrant shall not perform dental fluoroscopy without an image intensifier.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective August 8, 1986 (Supp. 86-4). Amended January 2, 1996 (Supp. 96-1). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-611. Therapeutic X-ray Systems of Less Than 1 MeV****A. Equipment requirements.**

1. Leakage radiation. A registrant shall ensure that:
  - a. Contact therapy systems. Leakage radiation does not exceed 25.8 microcoulombs per kilogram (100 milliroentgens) per hour at 5 centimeters (2 inches) from the surface of the tube housing assembly.
  - b. 0-150 kVp systems. Systems that are manufactured or installed before January 2, 1996, have a leakage radiation that does not exceed 258 microcoulombs per kilogram (1 roentgen) in one hour at 1 meter (3.3 feet) from the source.
  - c. 0-150 kVp systems. Systems that are manufactured on or after January 2, 1996, have a leakage radiation that does not exceed 25.8 microcoulombs per kilogram (100 milliroentgens) in one hour at 1 meter from the source.
  - d. Above 150 kVp. The leakage radiation does not exceed 258 nC/kg (1 roentgen) in one hour at 1 meter (3.3 feet) from the source except systems that operate in excess of 500 kVp may have a leakage radiation at 1 meter from the source equivalent to the exposure within one hour of the useful beam at 1 meter (3.3 feet) from the source multiplied by a factor of 0.001.
2. Permanent beam limiting devices. A registrant shall ensure that fixed diaphragms or cones used for limiting the useful beam provide the same or higher degree of protection as required for the tube housing assembly.
3. Removable and adjustable beam-limiting devices. A registrant shall ensure that:
  - a. Removable and adjustable beam-limiting devices, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
  - b. Adjustable beam-limiting devices installed before the effective date of this Section, for the portion of

- the x-ray beam to be blocked by these devices, transmit not more than 5 percent of the useful x-ray beam at maximum kilovoltage and maximum treatment filter.
4. Filter system. A registrant shall ensure that the filter system is designed so that:
    - a. Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
    - b. Each filter is marked regarding its material of construction and its thickness or wedge angle for wedge filters; and
    - c. It is possible for the operator to determine the presence or absence of each filter and the orientation of each wedge filter in the useful beam if the operator is at the control panel, either by display at the control panel or by direct observation.
  5. X-ray tube immobilization. A registrant shall ensure that the tube housing assembly is capable of being immobilized during stationary treatments.
  6. Focal spot marking. A registrant shall ensure that the tube housing assembly is marked so that it is possible to determine the location of the focal spot to within 5 millimeters, and the marking is readily accessible for use during calibration procedures.
  7. Therapy treatment timers. A registrant shall:
    - a. Provide a timer that has a display at the treatment control panel. The timer shall be graduated in minutes and fractions of minutes. The timer shall have a preset time selector and an elapsed time indicator;
    - b. Ensure that the timer is a cumulative timer that activates with the radiation, retains its reading after irradiation is interrupted or terminated, and requires the operator to reset the preset time selector after irradiation is terminated and before irradiation can be reinitiated;
    - c. Ensure that the timer terminates irradiation when a preselected time has elapsed;
    - d. Ensure that the timer permits accurate presetting and determination of exposure times as short as one second;
    - e. Ensure that the timer does not permit an exposure if set at zero; and
    - f. Ensure that the timer does not activate until the shutter is opened if irradiation is controlled by a shutter mechanism.
  8. Control panel functions. In addition to the displays required in other provisions of this Section, a registrant shall ensure that a control panel has:
    - a. An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;
    - b. An indication of whether x-rays are being produced;
    - c. A means for indicating kVp and x-ray tube current;
    - d. A means for terminating an exposure at any time;
    - e. A locking device that will prevent unauthorized use of the x-ray system; and
    - f. For x-ray equipment installed after January 2, 1996, a positive display of specific filters in the beam.
  9. Multiple tubes. If one control panel is used to energize more than one x-ray tube a registrant shall ensure that:
    - a. It is possible to activate only one x-ray tube during any time interval,
    - b. There is an indication at the control panel that identifies which x-ray tube is energized, and
    - c. There is an indication at the tube housing assembly when that tube is energized.
  10. Source-to-patient distance. A registrant shall ensure that there is a means of determining the source-to-patient distance to within 1 centimeter.
  11. Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, a registrant shall ensure that the entire useful beam is automatically attenuated by a shutter with a lead equivalency not less than that of the tube housing assembly. In addition the registrant shall ensure that:
    - a. After the unit is at operating parameters, the operator controls the shutter electrically from the control panel; and
    - b. An indication of shutter position appears at the control panel.
  12. Low filtration x-ray tubes. A registrant shall ensure that each x-ray system equipped with a beryllium or other low-filtration window is clearly labeled as low-filtration equipment on the tube housing assembly and at the control panel.
- B. Facility design requirements.** In addition to shielding necessary to meet the requirements of Article 4 of this Chapter, a registrant shall ensure that:
1. Warning lights. A treatment room to which access is possible through more than one entrance has a warning light, in a readily observable position near the outside of any access doors, which will indicate when the useful beam is "on."
  2. Voice communication. Two-way oral communication is possible between the patient and the operator at the control panel; or where excessive noise levels make oral communication impractical, another effective method of communication.
  3. Viewing systems. Windows, mirrors, closed-circuit television, or an equivalent system, permits continuous observation of the patient during irradiation and is located so that the operator can observe the patient from the control panel. If the primary viewing system is by electronic means (for example, television), the registrant shall have an alternate viewing system for use in the event of electronic failure.
  4. Systems above 150 kVp. For treatment rooms that contain an x-ray system capable of operating above 150 kVp a registrant shall ensure that:
    - a. All necessary shielding, except for any beam interceptor, is provided by fixed barriers;
    - b. The control panel is within a protective booth equipped with an interlocked door, or located outside the treatment rooms;
    - c. All doors of the treatment room are electrically connected to the control panel so that x-ray production cannot occur unless all doors are closed; and
    - d. Opening of any door to the treatment room during exposure results in automatic termination of x-ray production or reduction of radiation levels to an average of no more than 516 nC/kg (2 milliroentgens) per hour and a maximum of 2.6  $\mu$ C/kg (10 milliroentgens) per hour at a distance of 1 meter (3.3 feet) from the target in any direction, and restoration of the machine to full operation is possible only from the control panel after the termination or reduction.
- C. Surveys.** A registrant shall ensure that:
1. All facilities, both new and existing, or not previously surveyed, are surveyed before being put into service for the treatment of patients by, or under the direction of, a person trained and experienced in the principles of radiation.

tion protection, and perform additional surveys of a facility after any change in the facility or a facility's equipment that might cause a significant increase in radiation hazard, before being put into service for the treatment of patients.

2. The person conducting the survey reports the person's findings in writing to the individual in charge of the facility and maintains a copy of the report for inspection by the Agency.
3. The installation is operated in compliance with any limitations indicated by the protection survey required by subsection (C)(1).

**D. Calibrations.** A registrant shall ensure that:

1. The calibration of an x-ray system includes, but is not limited to, the following determinations:
  - a. Verification that the x-ray system is operating in compliance with the design specifications;
  - b. The dose rate equivalent for each combination of field size, technique factors, filter, and treatment distance used;
  - c. The degree of congruence between the radiation field and the field indicated by the localizing device if a localizing device is used; and
  - d. An evaluation of the uniformity of the radiation field symmetry for the field sizes used and any dependence upon source housing assembly orientation;
2. The calibration of an x-ray system is performed at intervals not to exceed 12 months and after any change or replacement of components that could cause a change in the radiation output;
3. The calibration of the radiation output of the x-ray system is performed by, or under the direction of, a person trained and experienced in performing calibrations, who is physically present at the facility during calibration;
4. Calibration of the radiation output of an x-ray system is performed with a calibrated instrument. The registrant shall ensure that calibration of the instrument is directly traceable to the National Institute of Standards and Technology (NIST) and that the instrument has been calibrated within the preceding 24 months;
5. Records of calibration performed under subsection (D)(3) are maintained for at least two years after completion of the calibration and are made available for inspection by the Agency; and
6. A copy of the most recent calibration is available for use by the operator at the control panel.

**E. Spot checks.** A registrant shall ensure that spot checks are performed on x-ray systems capable of operation at greater than 150 kVp. The registrant shall ensure that spot checks meet the following requirements:

1. The spot-check procedures are in writing and have been developed by a qualified person;
2. The measurements taken during the spot checks demonstrate the degree of consistency of the operating characteristics that can affect the radiation output of the x-ray system;
3. The written spot-check procedure specifies the frequency of the tests or measurements, made at intervals not to exceed monthly;
4. The spot-check procedure identifies conditions that require recalibration of the system in accordance with subsection (D)(1); and
5. Records of spot-check measurements performed as required by subsection (E)(3) are maintained, available for inspection by the Agency, for three years following the measurements.

**F. Operating procedures.** A registrant shall ensure that:

1. Therapeutic x-ray systems are not left unattended unless the system is secured according to subsection (A)(8)(e);
2. If a patient must be held in position for radiation therapy, mechanical supporting or restraining devices are used;
3. The tube housing assembly is not held by an individual during exposures; and
4. At 150 kVp or more the patient is the only person in the treatment room during production of radiation. At less than 150 kVp an individual may be in the room with patient, provided the individual is protected by a barrier sufficient to meet the requirements of Article 4 of this Chapter.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-611 repealed, new Section R12-1-611 adopted effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-612. Computerized Tomographic Systems**

**A. Definitions:**

1. "CT" means computerized tomography.
2. "CT conditions of operation" means all selectable parameters governing the operation of a CT including, but not limited to, nominal tomographic section thickness, and technique factors.
3. "CTDI" means computed tomography dose index, the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic thickness and the number of tomogram produced in a single scan.
4. "CTN" means CT number, the number used to represent the x-ray attenuation associated with each elemental area of the CT image.
5. "Dose profile" means the dose as a function of position along a line.
6. "Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.
7. "Multiple tomogram system" means a CT system that obtains x-ray transmissions data simultaneously during a single scan to produce more than one tomogram.
8. "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross section volume over which x-ray transmission data are collected.
9. "Reference plane" means a plane that is displaced from and parallel to the tomographic plane.
10. "Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram.

**B. Facility:** A registrant shall ensure that a CT facility has:

1. An operable two-way communication system between the patient and the operator in each CT room.
2. A viewing system that will allow the operator to continuously view the patient from the control panel during each examination. If the viewing system malfunctions the CT shall not be used until the viewing system is repaired.

**C. Equipment.** A registrant shall ensure that:

1. There is a means to terminate x-ray exposure automatically in the event of equipment failure by:
  - a. De-energizing the x-ray source, or
  - b. Shuttering the x-ray beam.

2. The equipment shall provide the operator the ability to terminate the x-ray exposure at any time during the examination, provided the scan or series of scans is greater than one-half second duration.
    - a. If an operator terminates an x-ray exposure, the operator shall reset the CT conditions of operation before the initiation of another scan.
    - b. A visible signal shall indicate when an x-ray exposure has been terminated because of equipment failure.
  3. A means is provided to permit visual determination of the tomographic plane for a single tomogram system, or the location of a reference plane offset from a single tomograph or multiple tomogram system.
    - a. If a light source is used to satisfy this requirement, it shall provide illumination of the tomographic plane or reference plane under ambient light conditions.
    - b. The difference between the actual plane location and the indicated location of a tomographic plane or reference plane shall not exceed 5 millimeters.
    - c. The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with any mass from 0 to 100 kilograms resting on the patient support device.
  4. The control panel and gantry provides a visual indication, if x-rays are produced.
  5. Emergency buttons and switches are marked by function.
  6. Parameters of CT operation used during a patient examination are visible to the operator upon initiation of the scan. If an operational parameter is not adjustable by the operator, this subsection may be met by indicating on the control panel the parameter is not adjustable by the operator.
  7. Radiation exposure does not exceed 100 mR in one hour at one meter in any direction from the tube port of an operating CT.
  8. The angular position or positions where the maximum surface CTDI occurs is identified to allow for reproducible positioning of a CT dosimetry phantom, except in those cases where the x-ray tubes are designed to move, in which case, the maximum dose and associated tube position shall be evaluated according to manufacturer recommendations.
- D. Operating Procedures.** A registrant shall ensure that:
1. Operating procedures are available at the control panel, or by electronic means, regarding the operation of a CT and evaluation of a CT's operation.
  2. The operating procedures contain the following information:
    - a. A copy of the latest evaluation of the CT's operation, to include output for each CT procedure, performed by a qualified expert;
    - b. Instructions on the use of the CT performance phantom by the qualified expert, a schedule of quality control tests with the results of the most recent quality control test, and the allowable variations for the indicated parameters;
    - c. The distance in millimeters between the tomographic plane and the reference plane if a reference plane is used; and
    - d. A current technique chart that contains the information required in R12-1-607(D)(4)(a) for both adult and pediatric patients, as applicable, is available at the CT operating console, and a procedure for determining whether a CT has been performed according to instructions of a physician.
  3. If the evaluation of the CT's operation or quality control test identifies a parameter exceeding the tolerance established by a qualified expert, the use of a CT for patient examination is limited to those uses established in written instructions from the qualified expert.
- E. Quality control tests.** A registrant shall have a written quality control test procedure, developed by a qualified expert, and ensure that the quality control test procedure:
1. Incorporates the use of a CT performance phantom that indicates:
    - a. Contrast scale,
    - b. Nominal tomographic section thickness,
    - c. Resolution capability of the system for low and high contrast objects, and
    - d. The mean CTN for water or other reference materials.
  2. Is followed in the evaluation of the CT's operation, that the interval between tests does not exceed two months, and that system conditions are specified by the registrant's qualified expert.
  3. Includes obtaining quality control test images with the CT performance phantom using the same processing mode and CT conditions of operation that are used to perform the evaluation of the CT's operation.
  4. Requires that images obtained under subsection (E)(3) be retained until a new evaluation of the CT's operation is performed.
  5. Requires the quality control test procedure and records of quality control tests performed be maintained for three years for Agency inspection.
- F. Evaluation of a CT's operation.** A registrant shall ensure that:
1. The evaluation of a CT's operation is performed by, or under the direct supervision of, a qualified expert who is physically present at the facility during the evaluation of the CT's operation.
  2. The evaluation of a CT's operation:
    - a. Is performed before initial patient use and annually (within two months of the annual due date) and after any change or replacement of components that could, in the opinion of the qualified expert, cause a change in radiation output; and
    - b. Shall measure the CTDI in a dosimetry phantom along the two axes specified in subsection (F)(4)(b).
  3. The evaluation of a CT's x-ray system is performed with a calibrated dosimetry system that:
    - a. Has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), and
    - b. Has been calibrated within the preceding two years.
  4. CT dosimetry phantoms used in determining radiation output meet the requirements specified by the CT manufacturer or a qualified expert who is responsible for maintaining proper operation; and
    - a. Are constructed in a way that the parameters used to image the most commonly imaged parts of the human body are evaluated; and
    - b. At a minimum, provide means for placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.
  5. Any effects on the measured dose due to the removal of phantom material to accommodate the dosimeter are accounted for in the reported data or included in the statement of maximum deviation for the measured values.
- G. CT units designated for simulator use, veterinary use, and non-diagnostic conjunctive use in a positron emission tomography**

(PET) unit are exempt from the requirements in subsection (F).

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-612 repealed, new Section R12-1-612 adopted effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R.1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-613. Veterinary Medicine Radiographic Systems

##### A. Equipment. A registrant shall ensure that:

1. Before January 2, 1996, the total filtration permanently in the useful beam is not less than 1.5 millimeters aluminum-equivalent for equipment operating at up to 70 kVp and 2.0 millimeters aluminum-equivalent for equipment operating in excess of 70 kVp;
2. A device is provided to terminate the exposure after a preset time or exposure;
3. Each radiographic system has a "dead-man" exposure switch with an electrical cord of sufficient length to allow the operator to stand at least 1.82 meters (six feet) away from the useful beam during x-ray exposures.

##### B. Procedures: A registrant shall ensure that:

1. Unless required to restrain an animal, the operator stands at least 1.82 meters (6 feet) away from the useful beam and the animal during a radiographic exposure;
2. An individual other than the operator is not in the x-ray room or area while an exposure is being made, unless the individual's assistance is required;
3. If possible, an animal is held in position during an x-ray exposure using mechanical supporting or restraining devices;
4. An individual holding an animal during an x-ray exposure is:
  - a. Wearing protective gloves and an apron of not less than 0.5 millimeter lead equivalent or positioned behind a whole-body protective barrier;
  - b. Wearing required personnel monitoring devices; and
  - c. Positioned so that no part of the person's body, except hands and arms, will be struck by the useful beam;
5. If an individual holds or supports an animal or a film during an x-ray exposure, the name of the individual is recorded in an x-ray log that contains the animal's name, the type of x-ray procedure, the number of exposures, and the date of the procedure; and
6. As a condition of employment an individual is not required to routinely hold or support animals, or hold film during radiation exposures.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsection (B) effective August 8, 1986 (Supp. 86-4). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-614. Mammography

##### A. Equipment. A registrant shall ensure that:

1. Only radiation machines specifically designed for mammographic examinations are used;

2. The film processor used in the registrant's facility is maintained in accordance with the film processor's and film manufacturer's recommendations;
3. Each facility has an image development system onsite unless the Agency has approved an alternate system;
4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: "measured kVp/100 and measured kVp/100 + L millimeters" of aluminum equivalent, where  $L = 0.12$  for Mo/Mo,  $L = 0.19$  for Mo/Rh,  $L = 0.22$  for Rh/Rh,  $L = 0.30$  for W/Rh target filtration combinations and  $L = 0.33$  for other target filtration combinations not otherwise specified.
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Association of Physicists in Medicine (AAPM), Report No. 29, Equipment Requirements and Quality Control for Mammography, August 1990, published by the American Institute of Physics, Suite 1N01, 2 Huntington Quadrangle, Melville, NY 11747 (This report is incorporated by reference and available under R12-1-101. The incorporated material contains no future editions or amendments. The report is available online at: <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.);
6. The compression device used with the mammographic unit, unless specifically manufactured otherwise, is parallel to the imaging plane, not varying at any spot by more than 1 centimeter;
7. The mammographic x-ray system with initial power drive:
  - a. Has compression paddles compatible with each size of image receptor;
  - b. Is capable of compressing the breast with a force of at least 25 pounds, but not more than 47 pounds, and maintaining the compression for at least three seconds; and
  - c. Is used in a manner so that the chest wall edge of the compression device is aligned just beyond the chest wall edge of the image receptor so that the chest wall edge of the compression device does not appear on the image receptor;
8. A mammographic x-ray system using screen-film image receptors has:
  - a. At least two different sizes of moving anti-scatter grids, including one for each size of image receptor utilized; and
  - b. Automatic exposure control;
9. All mammographic x-ray systems indicate or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control;
10. The collimation provided limits the useful beam to the image receptor so that the beam does not extend beyond any edge of the image receptor at any designated source to image receptor distance by more than 2 percent of the source to image receptor distance;
11. The accuracy of the indicated kVp is within plus or minus 2kVp;
12. Mammographic x-ray systems operating with automatic exposure control are capable of maintaining a film density within plus or minus 0.15 optical density units over

the clinical range of kVp used, for a breast having an equivalent phantom thickness from 2 to 6 centimeters. If a technique chart is used, the operator shall maintain the film density within plus or minus 0.15 optical density units of the mean optical density.

13. At a kVp of 28, the mammographic x-ray system is capable of generating at least 2.0  $\mu\text{C/kg/mAs}$  (8mR/mAs) and at least 200  $\mu\text{C/kg/second}$  (800 mR/second), measured at a point 4.5 centimeters above the surface of the patient support device when the Source-image receptor distance is at its maximum;
14. Screens are not used for mammography if one or more areas of greater than 1 centimeter squared of poor screen-film contact are seen when tested, using a 40 mesh screen test;
15. Mammographic image quality meets the minimum mammography film standards for phantom performance in Mammography Quality Control Manual, 1999 edition, published by the American College of Radiology (ACR). (This manual is incorporated by reference and available under R12-1-101. The incorporated material contains no future editions or amendments. The manual is available from ACR Publication Sales, P.O. Box 533, Annapolis Junction, MD 20701: toll free at (800) 227-7762; e-mail at: acr@brightkey.net).
16. The mean glandular dose for one cranio-caudal view of a 4.2 centimeter (1.8 inch) compressed breast, composed of 50 percent adipose and 50 percent glandular tissue, does not exceed 300 millirads (3 milligray); and
17. A radiologic physicist who meets the requirements in R12-1-614(C)(1)(c) evaluates the operation of a mammographic x-ray system:
  - a. When first installed and annually thereafter,
  - b. Following any major change in equipment or replacement of parts, and
  - c. When quality assurance tests indicate calibration is necessary.

**B. Operating Procedures.** A registrant shall ensure that:

1. Each mammographic facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals. Test results shall fall within the specified limits in subsection (B)(2) or the registrant shall take corrective action and maintain documentation that the results are within specified limits before performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R12-1-614(C)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
2. The quality assurance program meets federal requirements (Contained in 21 CFR 900.12(d)(1), and (e)(1) through (e)(10), revised April 1, 2008, incorporated by reference and available under R12-1-101. This incorporated material contains no future editions or amendments.); or the following requirements:
  - a. Daily sensitometric and densitometric evaluation of the image processing system demonstrates that Base + Fog < +0.03 optical density of operating level, Mid Density  $\pm$  0.15 optical density of operating level, and Density Difference  $\pm$  0.15 optical density of operating level;
  - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background

of greater than 1.40 optical density, not varying by 0.20 optical density of operating level;

- c. Monthly technique chart evaluations demonstrate updates for all equipment changes and that all examinations are being performed according to a physicist's density control recommendation;
- d. Quarterly fixer retention evaluations demonstrate an acceptable limit of less than or equal to 5.0 micrograms per square centimeter;
- e. Quarterly repeat analysis demonstrates an acceptable limit of less than 2 percent increase in repeats;
- f. Semiannual darkroom fog evaluations meet the limit of less than or equal to 0.05 optical density of fog, using the two minute exposed film method;
- g. Semiannual screen film contact evaluations meet the limit of less than one area of poor contact of 1 centimeter squared, using a 40 mesh screen on all clinically-used screens;
- h. Semiannual automatic compression force evaluations meet the limit of greater than or equal to 25 pounds (111 Newtons) and less than 45 pounds (200 Newtons);
- i. A survey shall be conducted annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include all of the following tests:
  - i. Automatic exposure control performance and thickness response;
  - ii. Accuracy and reproducibility of kVp;
  - iii. System resolution;
  - iv. Breast entrance air kerma and automatic exposure control reproducibility;
  - v. Average glandular dose;
  - vi. X-ray field, light field, and image receptor alignment;
  - vii. Compression paddle alignment;
  - viii. Uniformity of screen speed;
  - ix. System artifacts;
  - x. Radiation output;
  - xi. Decompression;
  - xii. Beam quality and half value layer;
- j. For systems with image receptor modalities other than screen film, the quality assurance and quality control program meets or exceeds the recommendations by the manufacturer; and
- k. The registrant maintains records documenting compliance with the provisions in this subsection for three years from the date each requirement is met. The records shall be made available for Agency inspection.

**C. Personnel.**

1. Each registrant shall require personnel who perform mammography, which includes the production, processing, and interpretation of mammograms and related quality assurance activities, to meet the following requirements:
  - a. An interpreting physician shall meet federal requirements (Contained in 21 CFR 900.12(a)(1), revised April 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); or
    - i. Be licensed under A.R.S. Title 32, Chapters 13 or 17;

- ii. Have initially completed 40 hours of medical education credits in mammography;
  - iii. Be certified by the American Board of Radiology or the American Osteopathic Board of Radiology or be approved by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners as qualified to read and interpret mammogram images;
  - iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation;
  - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
  - vi. Have received at least eight hours of training specific to each mammographic modality before engaging in independent interpretation.
- b. A mammographic technologist shall meet federal requirements (Contained in 21 CFR 900.12(a)(2), revised April 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); or
- i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic technologist certificate;
  - ii. Have performed at least 200 mammographic examinations in the preceding two years;
  - iii. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
  - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.
- c. A radiologic physicist shall meet federal requirements (Contained in 21 CFR 900.12(a)(3), revised April 1, 2008, incorporated by reference and available under R12-1-101. This incorporated material contains no future editions or amendments.); or
- i. Be certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;
  - ii. Possess documentation of state approval;
  - iii. Hold a master's degree or higher in a physical science;
  - iv. Have, upon initial employment as a radiologic physicist, experience conducting, at least one mammographic facility survey and evaluating at least 10 mammographic units;
  - v. Have, after completing the experience requirements in subsection (C)(1)(c)(iv), continuing experience surveying two mammographic facilities and evaluating six mammographic units during the preceding two years;
  - vi. Have completed 15 hours of continuing medical education credits in mammography during the three preceding years;
  - vii. Have received at least eight hours of training specific to any modality surveyed; and
- 2. Each registrant shall maintain records documenting the requirements in subsection (C)(1) for three years from the date the requirement is met and make the records available for Agency inspection.
- D. Mammographic films and reports.**
- 1. A registrant shall maintain films and reports for a minimum of five years. In those cases where no subsequent mammographic procedures are performed, the registrant shall maintain films and associated reports for 10 years. If the mammographic facility is closed, the registrant shall make arrangements for storage of the films and associated reports for five years after the closure; and
  - 2. A registrant shall make films and reports available for comparison upon request for temporary or permanent transfer to other mammographic facilities.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
 Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-615. Repealed****Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1). Section repealed by final rulemaking at 9 A.A.C. 4302, effective November 14, 2003 (Supp. 03-3).

**Appendix A. Information Submitted to the Agency According to R12-1-604(A)(3)(c)**

- A.** Name and address of the applicant and, if applicable, the name and address of any person within this state that is authorized to act on behalf of the applicant;
- B.** Disease or conditions to be diagnosed using the proposed x-ray examination;
- C.** A detailed description of each x-ray examination that will be used in the diagnosis;
- D.** A description of the population to be examined in the screening program, using characteristics such as age, sex, physical condition, and other descriptive information;
- E.** An evaluation of any known alternative diagnostic modalities not involving ionizing radiation that could achieve the same diagnosis as a screening program and why these modalities have not been chosen;
- F.** An evaluation by a qualified expert of the x-ray equipment used in the screening program, which demonstrates that the x-ray equipment satisfies the requirements of this Article.
- G.** A description of the quality control program;
- H.** A copy of the technique chart for the planned x-ray examination;
- I.** The qualifications of each individual who will be operating the x-ray equipment;
- J.** The qualifications of the individual who will be supervising each operator of the x-ray equipment;
- K.** The name and address of the individual who will interpret each radiographic image;
- L.** A description of the planned procedures for advising a screened individual and the screened individual's physician of the screening procedure results, and the need for further medical care, and
- M.** A description of the procedures for retention or disposition of the radiographic images and other records pertaining to the x-ray examination.



**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 9 A.A.R. 4302, effective  
November 14, 2003 (Supp. 03-3).

**Appendix B. Repealed****Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1). Section  
repealed by final rulemaking at 9 A.A.R. 4302, effective  
November 14, 2003 (Supp. 03-3).

**ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL****R12-1-701. License Required**

- A.** A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the Agency, the NRC, or another Agreement State, or as allowed in subsection (B)(1) or (B)(2).
- B.** A specific license is not needed for an individual who:
1. Receives, possesses, uses, or transfers radioactive material in accordance with the rules in this Chapter under the supervision of an authorized user as provided in R12-1-706, unless prohibited by license condition; or
  2. Prepares unsealed radioactive material for medical use in accordance with the rules in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user.

**Historical Note**

Former Rule Section G.1. Former Section R12-1-701 repealed, new Section R12-1-701 adopted effective June 30, 1977 (Supp. 77-3). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (07-1).

**R12-1-702. Definitions**

“Authorized medical physicist” means an individual who meets the requirements in R12-1-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a “qualified expert” as defined in Article 1.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R12-1-712.

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R12-1-719, R12-1-721, R12-1-723, R12-1-727, R12-1-728, or R12-1-744.

“Brachytherapy” means a method of radiation therapy in which a sealed source or group of sealed sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary, intraluminal, or interstitial application.

“CT” means computerized tomography.

“High dose rate afterloading brachytherapy” means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient’s body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article “pulse dose rate afterloading brachytherapy” is included in this definition.

“Human research subject” means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A subject may be either a healthy human, in research overseen by the RDRC, or a patient.

“Institutional review board” (IRB) is defined in R12-1-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R12-1-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R12-1-710, or

Is identified as a radiation safety officer on:

A specific medical use license issued by the NRC or Agreement State; or

A medical use permit issued by a NRC master material license.

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or

amendments. Research is considered basic research if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an applicator that has been previously inserted in an individual requiring treatment.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

“Teletherapy” means therapeutic irradiation in which the sealed source of radiation is at a distance from the body.

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R12-1-707.

#### Historical Note

Former Rule Section G2; Former Section R12-1-702 repealed, new Section R12-1-702 adopted effective June 30, 1977 (Supp. 77-3). Former Section R121-702 renumbered and amended as Section R12-1-703, new Section R12-1-702 adopted effective December 20, 1985 (Supp. 85-6). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-703. License for Medical Use of Radioactive Material**

**A.** In addition to the requirements set forth in R12-1-309, the Agency shall issue a specific license for medical use of radioactive material if:

1. The applicant has appointed a radiation safety committee, meeting the requirements in R12-1-705, that will oversee the use of licensed material throughout the licensee’s facility and associated radiation safety program;
2. The applicant possesses facilities for the clinical care of patients or human research subjects; and
3. The individual designated on the application as an authorized user has met the training and experience requirements in R12-1-719, R12-1-721, R12-1-723, R12-1-727, R12-1-728, or R12-1-744.

**B.** Specific licenses to individual authorized users for medical use of radioactive material:

1. The Agency shall approve an application by a prospective individual authorized user or prospective group of authorized users for a specific license governing the medical use of radioactive material if:
  - a. The applicant satisfies the general requirements in R12-1-309;
  - b. The application is for use in the applicant’s practice at an office outside of a medical institution;
  - c. The applicant meets the training and experience requirements in subsection (A)(3); and
  - d. The applicant has a radiation safety committee, if the criteria in R12-1-705 are applicable and a RDRC, if the use is basic research involving humans.
2. The Agency shall not approve an application by a prospective authorized user or group of prospective authorized users for a specific license to receive, possess, or use radioactive material on the premises of a medical institution unless:
  - a. The use of radioactive material is limited to:
    - i. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
    - ii. The performance of diagnostic studies on patients or human research subjects to whom a radiopharmaceutical has been administered;
    - iii. The performance of in vitro diagnostic studies; or
    - iv. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, or diagnostic instrumentation;
  - b. The authorized user brings the radioactive material and removes the radioactive material upon departure; and
  - c. The medical institution does not hold a radioactive materials license under subsection (A).

**C.** Specific licenses for certain groups of medical uses of radioactive material:

1. The Agency shall approve an application for a specific license under subsections (A) or (B), for any medical use or uses of radioactive material specified in Groups 100 through 600, in Exhibit A of this Article, for all of the materials within each group requested in the application if:
  - a. The applicant satisfies the requirements of subsections (A) and (B);
  - b. Each person involved in the preparation and use of the radioactive material is an authorized user, an authorized nuclear pharmacist, or certified as a nuclear medicine technologist by the Medical Radiologic Technology Board of Examiners (MRTBE);
  - c. The applicant’s radiation detection and measuring instrumentation is adequate for conducting the pro-

- cedures involved in the authorized uses selected from Group 100 through Group 600; and
- d. The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the authorized uses selected from Group 100 through Group 600.
2. Any licensee who is authorized to use radioactive material:
    - a. In unsealed form under Groups 100, 200, or 300 listed in Exhibit A of this Article, shall do so using radiopharmaceuticals prepared in accordance with R12-1-311(J); or
    - b. In sealed source form under Groups 400, 500, or 600 listed in Exhibit A of this Article, shall do so using sealed sources that have been manufactured and distributed in accordance with R12-1-311(L);
  3. Any licensee who is licensed according to subsection (C)(1), for one or more of the medical use groups in Exhibit A also is authorized to use radioactive material under the general license in R12-1-306(F) for the specified in vitro uses without filing Form ARRA-9 as required by R12-1-306(F)(2); provided, that the licensee is subject to the other provisions of R12-1-306(F).
- D.** In addition to the other license application requirements in this Section, each applicant shall include in the radiation safety program required under subsection (A)(1) a system for ensuring that each syringe and vial that contains unsealed radioactive material is labeled in accordance with R12-1-431(D).

#### Historical Note

Former Rule Section G.3; Former Section R12-1-703 repealed, new Section R12-1-703 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-703 renumbered and amended as Section R12-1-704, former Section R12-1-702 renumbered and amended as Section R12-1-703 effective December 20, 1985 (Supp. 85-6).

Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-704. Provisions for the Protection of Human Research Subjects**

- A.** A licensee may conduct basic research involving human research subjects and research involving patients receiving investigational new drugs or devices if the licensee only uses the radioactive material specified on the license for the uses authorized on the license.
- B.** If research is conducted, funded, supported, or regulated by a federal agency that has implemented the federal Policy for Protection of Human Research Subjects (45 CFR 46, June 23, 2005, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Agency, and contains no future editions or amendments), the licensee shall:
  1. Obtain review and approval of the research from an Institutional Review Board (IRB); and
  2. Obtain informed consent from the human research subject.
- C.** If research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the federal policy in subsection (B), a medical licensee shall, before conducting research, apply for and receive a specific amend-

ment to its use license. The amendment request shall include a written commitment that the licensee will, before conducting research:

1. Obtain review and approval of the research from an IRB, as defined and described in the federal policy; and
  2. Obtain informed consent from the human research subject.
- D.** Before conducting the research described in subsection (A) the licensee shall apply to the Agency for and receive a specific amendment to its medical use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
1. Obtain any review and approval required by this Section, and
  2. Obtain informed consent from the human research subject if applicable.
- E.** Nothing in this Section relieves a licensee from complying with the other requirements in this Article.

#### Historical Note

Repealed effective June 30, 1977 (Supp. 77-3). Former Section R12-1-703 renumbered and amended as Section R12-1-704 effective December 20, 1985 (Supp. 85-6).

Section repealed and new Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-705. Authority and Responsibilities for the Radiation Protection Program**

- A.** A licensee's management shall appoint in writing a radiation safety officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the RSO, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. Each time the RSO is changed, the licensee shall provide to the Agency within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of RSO.
- B.** Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, and 600, or two or more types of units under group 600, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the RSO, a representative of the nursing service, and a representative of management who is neither an authorized user nor a RSO.
- C.** If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Agency in writing and list the reasons why the health care institution is unable to meet the requirements.
- D.** A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Agency review for three years after the date of the RSC meeting.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section

repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-706. Supervision**

- A.** For purposes of this rule, “supervision” means the exercise of control over or direction of the use of radioactive material in the practice of medicine by an authorized user named on a radioactive material license. Supervision does not require a supervising physician’s constant physical presence if the supervising physician can be easily contacted by radio, telephone, or telecommunication.
- B.** A physician may use radioactive material if the person is licensed by the Arizona Medical Board or Board of Osteopathic Examiners in Medicine and Surgery and is listed as an authorized user on the Arizona radioactive material license under which the radioactive material is obtained.
- C.** A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, shall:
  1. Instruct the supervised individual in the licensee’s written radiation protection procedures, written directive procedures, rules, and license conditions with respect to the use of radioactive material; and
  2. Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules, and license conditions with respect to the medical use of radioactive material.
- D.** A licensee that permits the preparation of radioactive material for medical use by an individual who is supervised by an authorized nuclear pharmacist or a physician, who is an authorized user, shall:
  1. Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual’s involvement with radioactive material; and
  2. Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules, and license conditions.
- E.** A licensee that permits supervised activities under subsections (C) and (D) is responsible for the acts and omissions of the supervised individual.
- F.** A limited-service nuclear pharmacy licensee shall dispense radiopharmaceuticals only to a physician listed as an authorized user on a valid radioactive material license issued by the Agency, an Agreement State, or the NRC. For purposes of this rule “limited-service nuclear pharmacy” is defined in R4-23-110.

#### **Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-707. Written Directives**

- A.** A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient’s condition, a

delay in order to provide a written directive would jeopardize the patient’s health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient’s record. A written directive shall be prepared within 48 hours of the oral directive.

- B.** A written directive shall contain the patient or human research subject’s name and the following information:
  1. For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131: the dosage;
  2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
  3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
  4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
  5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or
  6. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
    - a. Before implantation: treatment site, the radionuclide, and dose; and
    - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, and total source strength and exposure time (or the total dose).
- C.** The licensee shall retain a copy of the written directive for three years after creation of the record.

#### **Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-708. Procedures for Administrations Requiring a Written Directive**

For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. The patient’s or human research subject’s identity is verified before each administration; and
2. Each administration is in accordance with the written directive.

#### **Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-709. Sealed Sources or Devices for Medical Use**

A licensee may only use:

1. Sealed sources, including teletherapy sources, or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under Article 3 of this Chapter, equivalent regulations of the NRC or equivalent requirements of an Agreement State; or
2. Sealed sources or devices noncommercially transferred from another medical licensee; or
3. Teletherapy sources manufactured and distributed in accordance with a license issued by the Agency, the NRC, or another Agreement State.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-710. Radiation Safety Officer Training**

**A.** A licensee shall require an individual fulfilling the responsibilities of the radiation safety officer, described in R12-1-705, to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2) and whose certification has been recognized by the Agency, NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Meet the following minimum requirements:
    - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
    - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
    - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
  - b. Meet the following minimum requirements:
    - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
    - ii. Have two years of full-time practical training and/or supervised experience in medical physics:
      - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or
      - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under section R12-1-710(B), R12-1-721, or R12-1-723;
    - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or
2. Has completed a structured educational program consisting of both:
  - a. 200 hours of didactic and laboratory training in the following areas:
    - i. Radiation physics and instrumentation;
    - ii. Radiation protection;
    - iii. Mathematics pertaining to the use and measurement of radioactivity;
    - iv. Radiation biology; and
    - v. Radiation dosimetry; and

- b. One year of full-time radiation safety experience under the supervision of the individual identified as the radiation safety officer on an Agency, NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
  - i. Shipping, receiving, and performing related radiation surveys;
  - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
  - iii. Securing and controlling byproduct material;
  - iv. Using administrative controls to avoid mistakes in the administration of byproduct material;
  - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
  - vi. Using emergency procedures to control byproduct material; and
  - vii. Disposing of byproduct material; or
- c. Has obtained written certification, signed by a preceptor radiation safety officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and (A)(2)(b) and has achieved a level of radiation safety knowledge sufficient to function independently as a radiation safety officer for a medical use licensee; or
3. Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has radiation safety officer responsibilities.

**B. Exceptions.**

1. An individual identified as a radiation safety officer on an Agency, a NRC, or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before the effective date of these rules need not comply with the training requirements in subsections (A)(1) through (A)(3).
2. A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Agency, NRC, or Agreement State, a permit issued by a NRC master material licensee, a permit issued by an Agency, NRC, or Agreement State broad scope licensee, or a permit issued by a NRC master material license broad scope permittee before the effective date of these rules need not comply with the training requirements in this Article.

**C.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

**R12-1-711. Authorized Medical Physicist Training**

**A.** A licensee shall require an authorized medical physicist to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsection (A)(2) and whose certification has been recognized by the Agency, NRC or an Agreement State; or
2. Training requirements.
  - a. Holds a master's or doctor's degree in physics, biophysics, radiological physics, medical physics, or health physics and has completed one year of full-time training in therapeutic radiological physics and an additional year of full-time work experience under the supervision of an authorized medical physicist at a medical institution that includes the physics tasks associated with the sealed source radiation therapy procedures regulated in this Article; and
  - b. Has obtained written certification that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written certification shall be signed by a preceptor authorized medical physicist who meets the requirements in this Section or equivalent NRC or Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

**B.** Exceptions. An individual identified as a teletherapy or medical physicist on an Agency, a NRC, or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before the effective date of these rules need not comply with the training requirements in subsection (A).

**C.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-712. Authorized Nuclear Pharmacist Training**

**A.** A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

1. Is certified as a nuclear pharmacist by a specialty board whose certification process includes all of the requirements in subsection (2) and whose certification has been recognized by the Agency, NRC, or an Agreement State; or
2. Has completed 700 hours in a structured educational program consisting of both:
  - a. Didactic training in the following areas:
    - i. Radiation physics and instrumentation;
    - ii. Radiation protection;
    - iii. Mathematics pertaining to the use and measurement of radioactivity;

- iv. Chemistry of radioactive material for medical use; and
- v. Radiation biology; and
- b. Supervised practical experience in a nuclear pharmacy involving:
  - i. Shipping, receiving, and performing related radiation surveys;
  - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
  - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
  - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
  - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
3. Has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

**B.** Exceptions. An individual identified as a nuclear pharmacist on an Agency, a NRC or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before the effective date of these rules need not comply with the training requirements in subsections (A)(1) through (A)(3).

**C.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-713. Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments**

**A.** A licensee shall determine and record the activity of each dosage before medical use.

**B.** For a unit dosage, this determination shall be made by:

1. Direct measurement of radioactivity; or
2. Decay correction, based on the activity or activity concentration determined by:
  - a. A manufacturer or preparer licensed under R12-1-311 or equivalent NRC or Agreement State requirements; or
  - b. An Agency, NRC, or Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA.

**C.** For other than unit dosages, this determination shall be made by:

1. Direct measurement of radioactivity;

2. Combination of measurement of radioactivity and mathematical calculations; or
  3. Combination of volumetric measurements and mathematical calculations based on the measurement made by a manufacturer or preparer licensed under R12-1-311, or equivalent NRC or Agreement State requirements.
- D.** Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.
- E.** A licensee shall retain a record of the dosage determination required by this Section for Agency inspection for three years.
- F.** For direct measurements performed in accordance with subsection (B)(1), a licensee shall possess and use instrumentation to measure the activity of the dosage before it is administered to each patient or human research subject.
- G.** A licensee shall calibrate the instrumentation required in subsection (F) in accordance with nationally recognized standards, the manufacturer's instructions, or the following procedures.
1. The procedures that may be followed are:
    - a. Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use;
    - b. Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;
    - c. Test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 megabecquerels (30 microcuries);
    - d. Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.
    - e. Perform appropriate checks and tests required by this Section following adjustment or repair of the dose calibrator; and
    - f. Mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.
  2. A licensee shall maintain the dose calibrator in accordance with this subsection, even though the dose calibrator is only used to "verify" a dosage prepared by a supplier authorized in subsection (B)(2).
  3. A licensee shall maintain on file for Agency review nationally recognized standards or manufacturer's instructions used to maintain a dose calibrator and meet the requirements of subsection (G).
- H.** A licensee shall calibrate the survey instruments before first use, annually, and following a repair that affects the calibration. A licensee shall:
1. Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;
  2. Calibrate two separated readings on each scale or decade that will be used to show compliance; and
  3. Conspicuously note on the instrument the date of calibration.
- I.** A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.
- J.** A licensee shall retain records of instrument calibration for three years following the calibration.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-714. Authorization for Calibration, Transmission, and Reference Sources

Any person authorized by R12-1-703 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use.

1. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under Article 3 of this Chapter or equivalent NRC or Agreement State regulations.
2. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under Article 3 of this Chapter, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.
3. Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi).
4. Any radioactive material with a half-life longer than 120 days in individual amounts not to exceed the smaller of 7.4 MBq (200 µCi) or 1000 times the quantities in Article 4, Appendix B of this Chapter.
5. Technetium-99m in amounts as needed.
6. A licensee is limited to five sources of radiation authorized under subsections (1) through (3), unless otherwise specified in the licensee's radioactive material license.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-715. Requirements for Possession of Sealed Sources and Brachytherapy Sources

- A.** A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.
- B.** A licensee in possession of a sealed source shall test the source for leakage in accordance with R12-1-417.
- C.** A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory every six months of all sources in its possession. During the period of time between the inventories, the licensee shall add each acquired sealed source to the inventory record and remove from the inventory record each source that leaves the licensee's control.

- D. A licensee shall document the inventories conducted under subsection (C) and maintain inventory records in accordance with R12-1-450.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-716. Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns

- A. In addition to the surveys required in Article 4 of this Chapter, a licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where unsealed radioactive material, requiring a written directive, is prepared for use or administered. In areas of routine use, that are to be released for unrestricted use, a licensee shall perform a survey of the area using an instrument appropriate for detecting contamination before releasing the area for unrestricted use.
- B. A licensee shall obtain the services of a person, experienced in the principles of radiation protection and installation design, to design a PET facility and perform a radiation survey when the facility is ready for patient imaging. The licensee shall provide a copy of the installation radiation survey to the Agency within 30 days of imaging the first patient.
- C. The licensee shall use engineering controls or shield each PET use area with protective barriers necessary to comply with the radiation exposure limits in R12-1-408 and R12-1-416.
1. At the time of application for a new license or amendment to an existing license, and before imaging of the first patient, the licensee shall provide to the Agency a copy of the installation report signed by the contractor who installed the shielding material recommended by a person meeting the requirements in subsection (B) and a copy of the installation radiation survey required in subsection (B).
  2. The licensee shall perform shielding calculations in accordance with *AAPM Task Group 108: PET and PET/CT Shielding Requirements*, in *Medical Physics*, Vol. 33, No. 1, January 2006, which is incorporated by reference, published by the American Association of Physicists in Medicine, One Physics Ellipse, College Park, MD 20740, and on file with the Agency. This incorporation by reference contains no future editions or amendments. In lieu of these procedures, the licensee may use equivalent calculations approved by the Agency.
- D. As part of the annual ALARA review required in R12-1-407, the licensee shall document a review of the PET patient workload and associated change, if any, in public exposure resulting from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-717. Release of Individuals Containing Radioactive Material

- A. A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material, if the total effective dose equivalent to any other individual from

exposure to the released individual is not likely to exceed 5 mSv (0.5 rem).

- B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 mSv (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:
1. Guidance on the interruption or discontinuation of breast-feeding; and
  2. Information on the potential consequences, if any, of failure to follow the guidance.
- C. A licensee shall maintain a record of the basis for authorizing the release of an individual and instructions provided to a breast-feeding female for three years from the date of the administration performed under subsection (A). Nothing in this rule relieves the licensee from the personnel exposure requirements in Article 4.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-718. Mobile Medical Service

- A. A licensee providing mobile medical service shall:
1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;
  2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this subsection shall include a constancy check;
  3. Check survey instruments for proper operation with a dedicated check source before use at each client's address; and
  4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in Article 4 of this Chapter.
- B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing its possession. If applicable, radioactive material delivered to the client shall be received and handled in conformance with the client's license.
- C. A licensee providing mobile medical services shall retain the letter required in subsection (A)(1) and the record of each survey required in subsection (A)(4) for three years from the date of the survey.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-719. Training for Uptake, Dilution, and Excretion



**Studies**

- A. Except as provided in R12-1-710, each licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 to be a physician who has completed the training requirements in 10 CFR 35.190, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-720. Permissible Molybdenum-99 Concentrations**

- A. A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m).
- B. A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (A).
- C. A licensee shall maintain a record of each molybdenum-99 concentration measurement for three years following completion of the measurement.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-721. Training for Imaging and Localization Studies Not Requiring a Written Directive**

- A. Except as provided in R12-1-710, a licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 to be a physician who has completed the training requirements in 10 CFR 35.290, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. An authorized user candidate who is a cardiologist is limited to nuclear cardiology if the candidate is unable to provide proof that he or she has participated in 700 hours of training and experience, required in 10 CFR 35.290(c).
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive**

- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R12-1-717. To satisfy this requirement, the instruction shall describe the licensee's procedures for:
  1. Patient or human research subject control;
  2. Visitor control;
  3. Contamination control;
  4. Waste control; and
- B. For each patient or human research subject who cannot be released under R12-1-717, a licensee shall:
  1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
  2. Visibly post the patient's or the human research subject's room with a "Radioactive Materials" sign.
  3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and
  4. Monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
- C. A licensee shall notify the radiation safety officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- D. A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma**

- A. Except as provided in R12-1-710, a licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 to be a physician who has completed the training requirements in 10 CFR 35.390, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. Except as provided in R12-1-710, a licensee shall require an authorized user of iodine-131 for the treatment of hyperthyroidism to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C. Except as provided in R12-1-710, a licensee shall require an authorized user of iodine-131 for the treatment of thyroid carcinoma to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration,

Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

- D. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-724. Surveys after Brachytherapy Source Implant and Removal; Accountability**

- A. A licensee shall make a survey to locate and account for all sources that have not been implanted immediately after implanting sources in a patient or a human research subject.
- B. A licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument immediately after removing the last temporary implant source to confirm that all sources have been removed.
- C. A licensee shall maintain accountability at all times for all sources in storage or use.
- D. A licensee shall return brachytherapy sources to a secure storage area as soon as possible after removing sources from a patient or a human research subject.
- E. A licensee shall record the procedures performed in subsections (A) through (D) and retain the records for three years following completion of the record.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-725. Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R12-1-717**

- A. In addition to the training requirements in Article 10, a licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under R12-1-717. To satisfy this requirement, the instruction shall be commensurate with the duties of the personnel and include the:
  - 1. Size and appearance of the brachytherapy sources;
  - 2. Safe handling and shielding instructions;
  - 3. Patient or human research subject control;
  - 4. Visitor control, including both:
    - a. Routine visitation of hospitalized individuals in accordance with Article 4 of this Chapter,
    - b. Visitation authorized in accordance with Article 4 of this Chapter, and
  - 5. Notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.
- B. For each patient or human research subject who is receiving brachytherapy and cannot be released under R12-1-717, a licensee shall:
  - 1. Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;
  - 2. Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
  - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.

- C. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
  - 1. Dislodged from the patient; and
  - 2. Lodged within the patient following removal of the source applicators.
- D. A licensee shall notify the radiation safety officer, or the RSO's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- E. A licensee shall record the instructions given under subsection (A) and retain the records for three years after recording the instructions.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-726. Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems**

- A. Before the first medical use of a brachytherapy source after the effective date of this rule, a licensee shall have:
  - 1. Determined the source output or activity using a dosimetry system that meets the requirements of R12-1-733(A);
  - 2. Determined source positioning accuracy within applicators; and
  - 3. Used published protocols currently accepted by nationally recognized bodies to meet the requirements of subsections (A)(1) and (A)(2).
- B. A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (A).
- C. A licensee shall mathematically correct the outputs or activities determined in subsection (A) for physical decay at intervals consistent with 1 percent physical decay.
- D. Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under subsection (A).
- E. A licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
  - 1. The source-specific input parameters required by the dose calculation algorithm;
  - 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
  - 3. The accuracy of isodose plots and graphic displays; and
  - 4. The accuracy of the software used to determine sealed source positions from radiographic images.
- F. A licensee shall retain records of each source activity determination and ophthalmic source decay correction, and documentation of the acceptance testing protocol required under subsection (E) for three years after the date of the procedure required in subsections (A) and (D), and for the records created in conjunction with subsection (E), the record shall be maintained for three years from the last date of the protocol's use.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease**

- A. Except as provided in R12-1-710, a licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under Group 400 to be a physician who has completed the training requirements in 10 CFR 35.490, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. Except as provided in R12-1-710, a licensee shall require an authorized user of strontium-90 for ophthalmic radiotherapy to be a physician who has completed the training requirements in 10 CFR 35.491, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-728. Training for Use of Sealed Sources for Diagnosis**

- A. Except as provided in R12-1-710, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 to be a physician, dentist, or podiatrist who has completed the training requirements in 10 CFR 35.590, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-729. Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit**

- A. Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that each source has been removed from the patient or human research subject and returned to the safe shielded position.
- B. A licensee shall make records of these surveys conducted under subsection (A) and retain them for three years from the date of each survey.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-730. Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit**

- A. Only a person specifically licensed by the Agency, NRC, or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on any source shielding, the source's driving unit, or other electronic or mechanical component that could expose a source, reduce the shielding around a source, or compromise the radiation safety of a unit or a source.
- B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the Agency, NRC, or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.
- C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the Agency, NRC, or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.
- D. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units for three years from the completion date of the activity listed in this Section.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A. A licensee shall:
  - 1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
  - 2. Permit only individuals approved by the authorized user, radiation safety officer, or authorized medical physicist to be present in the treatment room during treatment with a source;
  - 3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
  - 4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
    - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
    - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and
    - c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.
- B. A licensee shall post instructions at the unit console to inform the operator of:
  - 1. The location of the procedures required by subsection (A)(4); and
  - 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

- C. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
  - 1. The procedures identified in subsection (A)(4); and
  - 2. The operating procedures for the unit.
- D. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.
- E. A licensee shall retain a record of individuals receiving instruction required by subsection (C) for three years from the date of the instruction.
- F. A licensee shall maintain a copy of the procedures required by subsections (A)(4) and (C)(2) for Agency review. The copy shall be maintained for three years beyond the termination date of the activities for which the procedures were written.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-732. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A. A licensee shall control access at each entrance to a treatment room.
- B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:
  - 1. Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
  - 2. Cause each source to be shielded when an entrance door is opened; and
  - 3. Prevent any source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source's on-off control is reset at the console.
- C. A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.
- D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.
- E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.
- F. In addition to the requirements specified in subsections (A) through (E), a licensee shall:
  - 1. For medium dose-rate and pulsed dose-rate remote afterloader units, require:
    - a. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
    - b. An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove each source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.
  - 2. For high dose-rate remote afterloader units, require:

- a. An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and
  - b. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.
- 3. For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit. As used in this provision, physically present means to be within hearing distance of normal voice, and does not include the use of portable communication devices, intercoms, or other devices that could be used to amplify the human voice.
  - 4. Notify the radiation safety officer, or radiation safety officer's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
    - 1. Remaining in the unshielded position; or
    - 2. Lodged within the patient following completion of the treatment.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-733. Dosimetry Equipment**

- A. Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.
  - 1. The system shall have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or
  - 2. The system shall have been calibrated within the previous four years. Eighteen to 30 months after that calibration, the system shall have been intercompared with another dosimetry system that was calibrated within the past 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison shall indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.
- B. The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (A). This comparison shall have been performed within the previous year and after each servicing that may have affected sys-

tem calibration. The spot-check system may be the same system used to meet the requirement in subsection (A).

- C. The licensee shall retain, for three years from the date of the procedure, a record of each calibration, intercomparison, and comparison.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-734. Full Calibration Measurements on Teletherapy Units

- A. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:
1. Before the first medical use of the unit; and
  2. Before medical use under the following conditions:
    - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
    - b. Following replacement of the source or following reinstallation of the teletherapy unit in a new location;
    - c. Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
  3. At intervals not exceeding one year.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
1. The output within  $\pm 3$  percent for the range of field sizes and for the distance or range of distances used for medical use;
  2. The coincidence of the radiation field and the field indicated by the light beam localizing device;
  3. The uniformity of the radiation field and its dependence on the orientation of the useful beam;
  4. Timer accuracy and linearity over the range of use;
  5. On-off error; and
  6. The accuracy of all distance measuring and localization devices in medical use.
- C. A licensee shall use the dosimetry system described in R12-1-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date it was completed.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-735. Full Calibration Measurements on Remote Afterloader Units

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
  2. Before medical use under the following conditions:
    - a. Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
    - b. Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
  3. At intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
  4. At intervals not exceeding one year for low dose-rate remote afterloader units.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include, as applicable, determination of:
1. The output within  $\pm 5$  percent;
  2. Source positioning accuracy to within  $\pm 1$  millimeter;
  3. Source retraction with backup battery upon power failure;
  4. Length of the source transfer tubes;
  5. Timer accuracy and linearity over the typical range of use;
  6. Length of the applicators; and
  7. Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.
- C. A licensee shall use the dosimetry system described in R12-1-733(A) to measure the output.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (B), a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.
- F. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (A) through (E).
- G. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay at intervals consistent with 1 percent physical decay.
- H. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (G) shall be performed by an authorized medical physicist.
- I. A licensee shall retain a record of each calibration for three years from the date it was completed.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-736. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
  2. Before medical use under the following conditions:
    - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the

- output obtained at the last full calibration corrected mathematically for radioactive decay;
- b. Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and
- c. Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and
- 3. At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.
- B.** To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
  - 1. The output within  $\pm 3$  percent;
  - 2. Relative helmet factors;
  - 3. Isocenter coincidence;
  - 4. Timer accuracy and linearity over the range of use;
  - 5. On-off error;
  - 6. Trunnion centricity;
  - 7. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
  - 8. Helmet microswitches;
  - 9. Emergency timing circuits; and
  - 10. Stereotactic frames and localizing devices (trunnions).
- C.** A licensee shall use the dosimetry system described in R12-1-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D.** A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E.** A licensee shall mathematically correct the outputs determined in subsection (B)(1) at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.
- F.** Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G.** A licensee shall retain a record of each calibration for three years from the date of the procedure.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-737. Periodic Spot-checks for Teletherapy Units

- A.** A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:
  - 1. Timer accuracy, and timer linearity over the range of use;
  - 2. On-off error;
  - 3. The coincidence of the radiation field and the field indicated by the light beam localizing device;
  - 4. The accuracy of all distance measuring and localization devices used for medical use;
  - 5. The output for one typical set of operating conditions measured with the dosimetry system described in R12-1-733(B); and
  - 6. The difference between the measurement made in subsection (A)(5) and the anticipated output, expressed as a percentage of the anticipated output.
- B.** A licensee shall perform measurements required by subsection (A) in accordance with written procedures established by an

authorized medical physicist. That individual need not actually perform the spot-check measurements.

- C.** A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D.** A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:
  - 1. Electrical interlocks at each teletherapy room entrance;
  - 2. Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
  - 3. Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;
  - 4. Viewing and intercom systems;
  - 5. Treatment room doors from inside and outside the treatment room; and
  - 6. Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- E.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F.** A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the teletherapy unit.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-738. Periodic Spot-checks for Remote Afterloader Units

- A.** A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:
  - 1. Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;
  - 2. Before each patient treatment with a low dose-rate remote afterloader unit; and
  - 3. After each source installation.
- B.** A licensee shall perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C.** A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D.** To satisfy the requirements of subsection (A), spot-checks shall, at a minimum, assure proper operation of:
  - 1. Electrical interlocks at each remote afterloader unit room entrance;
  - 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
  - 3. Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;
  - 4. Emergency response equipment;

5. Radiation monitors used to indicate the source position;
  6. Timer accuracy;
  7. Clock (date and time) in the unit's computer; and
  8. Decayed source activity in the unit's computer.
- E.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F.** A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the afterloader unit.
- E.** A licensee shall arrange for the repair of any system identified in subsection (C) that is not operating properly as soon as possible.
- F.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- G.** A licensee shall retain a record of each check required by subsections (C) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the radiosurgery unit.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.  
1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-739. Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units**

- A.** A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:
1. Monthly;
  2. Before the first use of the unit on a given day; and
  3. After each source installation.
- B.** A licensee shall:
1. Perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
  2. Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- C.** To satisfy the requirements of subsection (A)(1), spot-checks shall, at a minimum:
1. Assure proper operation of:
    - a. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
    - b. Helmet microswitches;
    - c. Emergency timing circuits; and
    - d. Stereotactic frames and localizing devices (trunnions).
  2. Determine:
    - a. The output for one typical set of operating conditions measured with the dosimetry system described in R12-1-733(B);
    - b. The difference between the measurement made in subsection (C)(2)(a) and the anticipated output, expressed as a percentage of the anticipated output;
    - c. Source output against computer calculation;
    - d. Timer accuracy and linearity over the range of use;
    - e. On-off error; and
    - f. Trunnion centricity.
- D.** To satisfy the requirements of subsections (A)(2) and (A)(3), spot-checks shall assure proper operation of:
1. Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
  2. Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
  3. Viewing and intercom systems;
  4. Timer termination;
  5. Radiation monitors used to indicate room exposures; and
  6. Emergency off buttons.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.  
1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-740. Additional Requirements for Mobile Remote Afterloader Units**

- A.** A licensee providing mobile remote afterloader service shall:
1. Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and
  2. Account for all sources before departure from a client's address of use.
- B.** In addition to the periodic spot-checks required by R12-1-738, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:
1. Electrical interlocks on treatment area access points;
  2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
  3. Viewing and intercom systems;
  4. Applicators, source transfer tubes, and transfer tube-applicator interfaces;
  5. Radiation monitors used to indicate room exposures;
  6. Source positioning (accuracy); and
  7. Radiation monitors used to indicate whether the source has returned to a safe shielded position.
- C.** In addition to the requirements for checks in subsection (B), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.
- D.** If the results of the checks required in subsection (B) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- E.** A licensee shall retain a record of each check required by subsection (B) for three years from the date of the procedure.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.  
1217, effective May 5, 2007 (Supp. 07-1).

**R12-1-741. Additional Radiation Surveys of Sealed Sources used in Radiation Therapy**

- A.** In addition to the survey requirement in Article 4 of this Chapter, a person licensed to use sealed sources in the practice of radiation therapy shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with each source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.
- B.** A licensee shall make the survey required by subsection (A) at installation of a new source and following repairs to any

source shielding, a source's driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around a source, or compromise the radiation safety of the unit or the source.

- C. A licensee shall retain a record of the radiation surveys required by subsection (A) for three years from the date of each survey.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-742. Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- B. This inspection and servicing may only be performed by persons specifically licensed to do so by the Agency, NRC, or an Agreement State.
- C. A licensee shall keep a record of each five-year inspection for three years from the date of the inspection, if the inspection determined that service was unnecessary, and three years from the date of the completed service if the inspection determined that service was needed.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-743. Therapy-related Computer Systems

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

1. The source-specific input parameters required by the dose calculation algorithm;
2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
3. The accuracy of isodose plots and graphic displays;
4. The accuracy of the software used to determine sealed source positions from radiographic images; and
5. The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. Except as provided in R12-1-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 to be a physician who has completed the training requirements in 10 CFR 35.690, January 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experi-

ence since the required training and experience was completed.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-745. Report and Notification of a Medical Event

- A. A licensee shall report any "medical" event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:
1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
    - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
    - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
    - c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
  2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
    - a. An administration of a wrong radiopharmaceutical containing radioactive material;
    - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
    - c. An administration of a dose or dosage to the wrong individual or human research subject;
    - d. An administration of a dose or dosage delivered by the wrong mode of treatment; or
    - e. A leaking sealed source.
  3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).
- B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
- C. The licensee shall notify by telephone the Agency no later than the next calendar day after discovery of the medical event.
- D. The licensee shall submit a written report to the Agency within 15 days after discovery of the medical event.
1. The written report shall include:
    - a. The licensee's name;
    - b. The name of the prescribing physician;
    - c. A brief description of the event;
    - d. Why the event occurred;
    - e. The effect, if any, on each individual who received the administration;
    - f. What actions, if any, have been taken or are planned to prevent recurrence; and



- g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.
- 2. The report may not contain an individual's name or any other information that could lead to identification of the individual.
- E. The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.
- F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.
- G. A licensee shall:
  - 1. Annotate a copy of the report provided to the Agency with the:
    - a. Name of the individual who is the subject of the event; and
    - b. Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and
  - 2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.
- D. The licensee shall submit a written report to the Agency within 15 days after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B). The written report shall include:
  - 1. The licensee's name;
  - 2. The name of the prescribing physician;
  - 3. A brief description of the event;
  - 4. Why the event occurred;
  - 5. The effect, if any, on the embryo/fetus or the nursing child;
  - 6. What actions, if any, have been taken or are planned to prevent recurrence; and
  - 7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.
- E. The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.
- F. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.
- G. A licensee shall:
  - 1. Make a copy of the report provided to the Agency and include with it the:
    - a. Name of the pregnant individual or the nursing child who is the subject of the event; and
    - b. Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and
  - 2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **R12-1-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child**

- A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.
- B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:
  - 1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or
  - 2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.
- C. The licensee shall notify the Agency by telephone no later than the next calendar day after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B).

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### **Exhibit A. Medical Use Groups Group 100**

Included is the use of any unsealed radioactive material for use in uptake, dilution, or excretion studies and not requiring a written directive: The radioactive material in this group shall be:

- 1. Obtained from a manufacturer or preparer licensed under R12-1-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or

2. Prepared by an authorized nuclear pharmacist who meets the requirements in R12-1-712, a physician who is an authorized user and who meets the requirements specified in R12-1-721 or R12-1-723, or an individual under the supervision of either as specified in R12-1-706;
3. And if a research protocol:
  - a. Obtained from and prepared by an Agreement State or NRC licensee for use in basic research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
  - b. Prepared by the licensee for use in basic research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

**Group 200**

Included is the use of any unsealed radioactive material for use in imaging and localization not requiring a written directive. PET radiopharmaceuticals may be used if the licensee meets the requirements in R12-1-716. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R12-1-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Prepared by an authorized nuclear pharmacist who meets the requirements in R12-1-712, a physician who is an authorized user and who meets the requirements specified in R12-1-721 or R12-1-723, or an individual under the supervision of either as specified in R12-1-706;
3. And if a research protocol:
  - a. Obtained from and prepared by an Agreement State or NRC licensee for use in basic research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA; or
  - b. Prepared by the licensee for use in basic research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

**Group 300**

Included is the use of any unsealed radioactive material for medical use (radiopharmaceutical) for which a written directive is required. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R12-1-703(C)(2)(a) or equivalent NRC or Agreement State requirements; or
2. Prepared by an authorized nuclear pharmacist who meets the requirements in R12-1-712, a physician who is an authorized user and who meets the requirements specified in R12-1-721 or R12-1-723, or an individual under the supervision of either as specified in R12-1-706; or
3. And if a research protocol:
  - a. Obtained from and prepared by an Agreement State or NRC licensee for use in an Investigational New Drug (IND) protocol accepted by FDA; or
  - b. Prepared by the licensee for use in basic research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

**Group 400**

Included is the use of any brachytherapy source for therapeutic medical use that is manufactured in accordance with R12-1-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption

(IDE) application accepted by the FDA, and meets the requirements of R12-1-709.

**Group 500**

Included is the use of any sealed source that is manufactured in accordance with R12-1-703(C)(2)(b), and is approved for diagnostic use in the Sealed Source and Device Registry.

**Group 600**

Included is the use of sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units that are manufactured in accordance with R12-1-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA and meets the requirements of R12-1-709.

**Historical Note**

New Exhibit adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

## ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS

**R12-1-801. Scope**

The rules in this Article establish requirements for the use of analytical x-ray equipment by persons registered under R12-1-204. The provisions of this Article supplement other applicable provisions of this Chapter.

**Historical Note**

Former Rule Section H.1; Former Section R12-1-801 repealed, new Section R12-1-801 adopted effective June 30, 1977 (Supp. 77-3). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-802. Definitions**

"Analytical x-ray equipment" means devices or machines used for x-ray diffraction or x-ray induced fluorescence analysis.

"Analytical x-ray system" means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

"Enclosed beam x-ray system" means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source is precluded during operation except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

"Fail-safe characteristic" means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

"Local component" means part of an analytical x-ray system and includes each area that is struck by x-rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding, but does not include power supplies, transformers, amplifiers, readout devices, and control panels.

"Normal operating procedures" means instructions or procedures including, but not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by

the registrant, and data recording procedures which are related to radiation safety.

“Open beam x-ray system” means an analytical x-ray system which permits an individual to place some body part in the primary beam path during normal operation.

“Primary beam” means radiation which passes through an aperture of the source housing on a direct path from the x-ray tube.

#### Historical Note

Former Rule Section H.2; Former Section R12-1-802 repealed, new Section R12-1-802 adopted effective June 30, 1977 (Supp. 77-3). Amended effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-803. Enclosed-beam X-ray Systems

- A. Enclosed beam x-ray systems are exempt from other equipment requirements contained in this Article provided the enclosed beam x-ray systems are designed and constructed so that radiation levels measured at 5 cm from any accessible surface of the enclosure housing the x-ray source do not exceed 5  $\mu$ Sv (0.5 mrem) in one hour.
- B. A registrant using enclosed beam x-ray systems shall comply with applicable provisions of R12-1-804(A), R12-1-805(B), and 12 A.A.C. 1, Article 4.
- C. A person who maintains or services analytical x-ray systems, shall:
  1. Obtain permission in advance from the radiation safety officer before bypassing interlocks or other safety devices,
  2. Label equipment as “out of service” until maintenance or service is completed,
  3. Wear extremity personnel monitoring devices, and
  4. Ensure that interlocks or other safety devices are operating upon completion of maintenance or service.

#### Historical Note

Former Rule Section H.3; Former Section R12-1-803 repealed, new Section R12-1-803 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-803 repealed, new Section R12-1-803 adopted effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-804. Open-beam X-ray Systems

- A. A registrant shall label open beam x-ray systems with a readily discernible sign or signs bearing the radiation symbol and the words:
  1. “CAUTION -- HIGH INTENSITY X-RAY BEAM,” or a similar warning, on the x-ray source housing; and
  2. “CAUTION RADIATION -- THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED” or a similar warning, near any switch that energizes an x-ray tube if the radiation source is an x-ray tube.
- B. A registrant shall ensure that an open beam x-ray system has all of the following warning devices:
  1. X-ray tube status (On-Off) indicator in systems where the primary beam is controlled in this fashion;
  2. Shutter status (Open-Closed) indicators near each port on the radiation housing for systems which control the primary beam; and
  3. A clearly visible warning light labeled with the words “X-RAY ON,” or a similar warning located near any switch that energizes an x-ray tube, illuminated only when the tube is energized; and

4. The warning devices in subsections (B)(1) through (3) shall be labeled so that their purpose is easily identified.

- C. A registrant shall ensure that any apparatus utilized in beam alignment procedures is designed in such a way that excessive radiation will not strike the operator. Particular attention shall be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level.
- D. A registrant shall provide an interlock device which prevents entry of any portion of an individual’s body into the primary beam or causes the primary beam to be shut off upon entry into its path on all open-beam x-ray systems. A registrant may apply to the Agency for an exemption from the requirements of a safety device. An application for exemption shall include:
  1. A description of the various safety devices that have been evaluated;
  2. The reason each device cannot be used; and
  3. A description of the alternative methods that will be used to minimize accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.
- E. A registrant shall use only systems constructed so that:
  1. Each x-ray tube housing is equipped with an interlock that automatically shuts off the tube if the tube is removed from the radiation source housing or the housing is disassembled; and
  2. With all shutters closed, radiation measured at a distance of 5 centimeters from the surface of the system is not capable of producing a dose that exceeds 25 Sv (2.5 mRem) in one hour for the specified tube rating of the x-ray tube.
- F. A registrant shall supply each x-ray generating system with a protective cabinet that limits leakage radiation measured at a distance of 5 cm (2 in) from the cabinet surface, so that the system is not capable of producing a dose equivalent that exceeds 25  $\mu$ Sv (2.5 mrem) in one hour.
- G. A registrant shall ensure that the local components of an analytical x-ray system are located and arranged and have sufficient shielding or access control for the specified tube rating to prevent the radiation level in any area adjacent to the local component group from exceeding the dose limits in R12-1-416.
- H. A registrant shall perform a radiation survey of the local component group of each analytical x-ray system to demonstrate compliance with subsection (G) upon:
  1. Installation,
  2. Change in configuration, or
  3. Maintenance that affects the radiation level in any area adjacent to the local component group.
- I. A registrant shall maintain a record of each survey for three years or until the analytical x-ray system is no longer used, whichever period is shorter.

#### Historical Note

Former Rule Section H.4; Former Section R12-1-804 repealed, new Section R12-1-804 adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-804 renumbered as Section R12-1-805 without change, new Section R12-1-804 adopted effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-805. Administrative Responsibilities

- A. A registrant shall designate a radiation safety officer who shall:

1. Establish and maintain operational procedures so that the radiation exposure of each worker is kept ALARA;
  2. Instruct all personnel who work with or near radiation producing machines in safety practices;
  3. Maintain a system of personnel monitoring;
  4. Establish radiation control areas, including placement of appropriate radiation warning signs or devices;
  5. Provide a radiation safety inspection of radiation producing machines on a routine basis;
  6. Review modifications to x-ray systems, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks;
  7. Investigate and report proper authorities any case of excessive exposure to personnel and take remedial action; and,
  8. Be familiar with all applicable rules for control of ionizing radiation.
- B.** An individual shall not be permitted to operate or maintain an open beam analytical x-ray system unless the individual has received instruction in and demonstrated competence in all of the following:
1. Identification of radiation hazards associated with the use of the equipment;
  2. Significance of all radiation warning and safety devices, interlocks incorporated into the equipment, or the reasons that devices or interlocks have not been installed on certain pieces of equipment and the extra precautions required in lieu of these precautions;
  3. Proper operating procedures for the equipment;
  4. Recognition of symptoms of acute localized radiation exposure; and
  5. Proper procedure for reporting an actual or suspected exposure.
- C.** A registrant shall maintain records of instruction and competence for Agency inspection for three years from the date of course completion or demonstration.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Former Section R12-1-805 renumbered as Section R12-1-806 without change. Former Section R12-1-804 renumbered as Section R12-1-805 without change effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-806. Operating Requirements

- A.** A radiation safety officer shall establish written emergency procedures and post the procedures in a conspicuous location. The procedures shall include the telephone number of the radiation safety officer.
- B.** A registrant shall ensure that written operating procedures are available for all analytical x-ray equipment workers. An individual shall not operate analytical x-ray equipment in any manner other than that specified in the procedures unless the individual obtains the radiation safety officer's written approval.
- C.** An individual shall not bypass a safety device or interlock unless the individual has obtained Radiation Safety Officer approval. The approval shall be for a specific period of time. When a safety device or interlock has been bypassed, the Radiation Safety Officer shall place a readily discernible sign on the radiation source housing, warning the reader of the unsafe condition. A registrant shall maintain the written record of the bypass approval for three years after the approval expires.
- D.** Except as authorized in subsection (C), an individual shall not perform an operation involving removal of covers, shielding materials, or tube housings or modification of shutters, collimators, or beam stops without ascertaining that the tube is off and that it will remain off until all protective devices have been restored to the normal operating condition. An individual repairing analytical x-ray equipment shall use the main switch, rather than interlocks, for routine shutdown in preparation for repairs.
- E.** A registrant shall ensure that unused ports on radiation source housings are closed and secured against unauthorized access to the radiation source.
- F.** Finger or wrist personnel monitoring devices shall be used by:
1. Operators of open beam analytical x-ray equipment not equipped with a safety device; and
  2. Personnel performing maintenance procedures that require the presence of a primary x-ray beam when any local component is disassembled or removed.
- G.** A registrant shall ensure that each safety and warning device is tested for proper operation at intervals that do not exceed one month and maintain a record of each test for three years from the date the test is completed.

#### Historical Note

Former Section R12-1-805 renumbered as Section R12-1-806 without change effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-807. Surveys

- A.** To ensure that personnel exposure does not result in a dose to an individual that exceeds the dose limits specified in Article 4, a registrant shall perform a radiation survey upon:
1. Installation of the equipment and at least once each year after installation;
  2. Change in the initial arrangement, number, or type of local components in the system;
  3. Maintenance that involves disassembly or removal of a local component in the system;
  4. Maintenance that involves alignment, if alignment requires the generation of the primary x-ray beam while any local component of the system is disassembled or removed;
  5. A visual inspection of the local components in the system that reveals an abnormal condition; or
  6. Determination that personnel are being exposed to radiation in excess of established levels recorded in monitoring records for personnel during previous monitoring periods or the occupational dose limits specified in Article 4.
- B.** The radiation surveys in subsection (A) are not required if the registrant demonstrates that the local components of an analytical x-ray system are located and arranged, and have sufficient shielding or access control, to limit personnel exposure to a level that is ALARA and below the occupational dose limits in Article 4. The Agency shall determine ALARA radiation levels based on the specified x-ray tube rating.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-808. Posting

A registrant shall conspicuously post each area or room that contains analytical x-ray equipment with a sign or signs that bear the

radiation symbol and the words “CAUTION – X-RAY EQUIPMENT” or words with a similar meaning.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-809. Training

A registrant shall not allow an individual to operate or maintain analytical x-ray equipment unless the individual has received training and demonstrated competence in:

1. Identifying radiation hazards associated with use of the equipment;
2. Recognizing and using radiation warning and safety devices, including interlocks that are incorporated into the equipment, and understanding why these devices are sometimes not installed;
3. Taking precautions associated with use of the equipment;
4. Recognizing symptoms of an acute localized exposure; and
5. Following proper procedure for reporting a suspected personnel exposure.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

### ARTICLE 9. PARTICLE ACCELERATORS

#### R12-1-901. Purpose and Scope

- A. This Article establishes procedures and requirements for the registration and the use of particle accelerators.
- B. In addition to the requirements of this Article, all registrants are subject to the requirements of Articles 1, 2, 4 and 10. Registrants engaged in industrial radiographic operations are subject to the requirements of Article 11, and registrants engaged in the healing arts are subject to the requirements of Article 6 of this Chapter. Registrants using a particle accelerator for the production of radioactive material are subject to the requirements of Article 3, and if the radioactive material is used for medical purposes, Article 7.

#### Historical Note

Former Rule Section I.1; Former Section R12-1-901 repealed, new Section R12-1-901 adopted effective June 30, 1977 (Supp. 77-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1).

#### R12-1-902. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Added filter” (See Article 6)

“Arc therapy” means radiation therapy that uses electrons to treat large, superficial volumes that follow curved surfaces, as in postmastectomy patients.

“Authorized medical physicist” means an individual who meets the requirements in R12-1-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a “qualified expert” as defined in Article 1.

“Beam-limiting device” (See Article 6)

“Beam-monitoring system” means a system of devices that will monitor the useful beam during irradiation and terminate irradiation when a preselected number of monitor units has been accumulated.

“Control panel” (See Article 6)

“Full beam detector” means a radiation detector of such size that the total cross section of the maximum size useful beam is intercepted.

“Gantry” means that part of a linear accelerator that supports the radiation source so that it can rotate about a horizontal axis.

“Interlock” (See Article 1)

“Isocenter” means the point of intersection of the collimator axis and the axis of rotation of the gantry.

“Monitor unit” means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

“Moving beam therapy” means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy, and rotational beam therapy.

“Rotational beam therapy” means radiation therapy that is administered to a patient from a radiation source that rotates around the patient’s body or the patient is rotated while the beam is held fixed.

“Skip therapy” means rotational beam therapy that is administered in a way that maximizes the dose to an area of interest and minimizes the dose to surrounding healthy tissue.

“Spot check” (See Article 6)

“Stationary beam therapy” means radiation therapy that involves a beam from a radiation source that is aimed at the patient from different directions. The distance of the source from the isocenter remains constant irrespective of the beam direction.

“Virtual source” means a point from which radiation appears to originate.

#### Historical Note

Former Rule Section I.2; Former Section R12-1-902 repealed, new Section R12-1-902 adopted effective June 30, 1977 (Supp. 77-3). Amended effective June 13, 1997 (Supp. 97-2). Section repealed by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). New Section made by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-903. General Registration Requirements

- A. The requirements in this Section supplement the registration requirements in 12 A.A.C. 1, Article 2.
- B. The Agency shall approve a registration application for use of a particle accelerator only if the Agency determines that:
  1. The applicant is qualified by training and experience to use the accelerator for the purpose in the application submitted to the Agency under Article 2;
  2. The applicant’s proposed equipment, facilities, and operating and emergency procedures are adequate to protect public health;
  3. The applicant satisfies any other applicable requirements in this Section; and 4. The applicant has appointed a radiation safety officer.

#### Historical Note

Former Rule Section I.3; Former Section R12-1-903 repealed, new Section R12-1-903 adopted effective June

30, 1977 (Supp. 77-3). Amended effective Aug. 8, 1986 (Supp. 86-4). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-904. Registration of Particle Accelerators Used in the Practice of Medicine**

**A.** The requirements in this Section supplement the registration requirements in R12-1-903.

**B.** An applicant that is a "medical institution," as defined in 12 A.A.C. 1, Article 7, and performing human research shall appoint a radiation safety committee that meets the following requirements:

1. The committee shall consist of at least four individuals and shall include:
    - a. An authorized user of each type of use permitted by the registration,
    - b. The Radiation Safety Officer,
    - c. A representative of the nursing service, and
    - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
    - e. Any other members the registrant selects;
  2. The committee shall meet at least once in each 12-month period, unless otherwise specified by registration condition;
  3. To conduct business at least 50 percent of the membership of the committee shall be present including the Radiation Safety Officer and the management representative;
  4. The minutes of each radiation safety committee meeting shall include a reference of any discussion or documents related to the review required in R12-1-407(C);
  5. Review the radiation safety program for all sources of radiation as required in R12-1-407(C);
  6. Establish a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
  7. Establish the safety objectives of the quality management program required by subsection (E).
- C.** The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician; approved by the radiation safety committee, if applicable; and is:

1. Certified in:
  - a. Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or
  - b. Radiation oncology by the American Osteopathic Board of Radiology; or
  - c. Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
  - d. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
2. Engaged in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
  - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include all of the following subjects.
    - i. Radiation physics and instrumentation,
    - ii. Radiation protection,
    - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
    - iv. Radiation biology.

b. To satisfy the requirement for supervised work experience, training shall occur under the supervision of an authorized user at a medical institution and shall include:

- i. Reviewing full calibration measurements and periodic spot checks,
- ii. Preparing treatment plans and calculating treatment times,
- iii. Using administrative controls to prevent misadministration,
- iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
- v. Checking and using survey meters.

c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

- i. Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
- ii. Selecting the proper dose and how it is to be administered;
- iii. Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as warranted by patients' or human research subjects' reaction to radiation; and
- iv. Post-administration follow up and review of case histories.

**D.** With the application the applicant shall provide the name of each authorized user to the Agency so the names can be listed on the registration form, and so that the Agency can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).

**E.** Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.

**F.** Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R12-1-711.

**G.** At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Agency with a description of the quality management program, a listing of the professional staff assigned to the facility, and the expected ratio of patient workload to staff member for programs involving multiple therapy sites. If the staffing ratio exceeds the recommended levels in Radiation Oncology in Integrated Cancer Management, Report of the Inter-Society Council for Radiation Oncology, December 1991, the applicant shall provide to the Agency for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the

program. This report is incorporated by reference and available under R12-1-101. The incorporated material contains no future editions or amendments. The report is available from the American Association of Physicists in Medicine: online at <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.

#### Historical Note

Former Rule Section I.4; Former Section R12-1-904 repealed, new Section R12-1-904 adopted effective June 30, 1977 (Supp. 77-3). Amended effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

### R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks

#### A. Equipment

1. Leakage radiation
  - a. X-ray leakage radiation from the source housing assembly shall not exceed 0.1 percent of the maximum dose equivalent rate of the unattenuated useful beam.
  - b. Neutron leakage radiation from the source housing assembly shall not exceed 0.5 percent of the maximum dose equivalent rate of the unattenuated useful beam.
  - c. Leakage radiation measurements made at any point 1 meter from the path of the charged particle between its point of origin and the target, window or scattering foil shall meet the requirements of subsection (A)(1)(a) and (b) when computed as a percentage of the dose rate equivalent of the unattenuated useful beam measured at 1 meter from the virtual source. Leakage radiation measurements at each point shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches).
  - d. The registrant shall maintain, for inspection by the Agency, records that show leakage radiation measurements for the life of the operation.
2. Beam limiting devices (not to include blocks or wedges). Adjustable or interchangeable beam limiting devices shall be provided and shall transmit no more than 2 percent of the useful beam for the portion of the useful beam that is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches) at the normal treatment distance.
3. Filters. The following requirements apply to systems that use a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters:
  - a. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;
  - b. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;
  - c. An indication of the wedge filter orientation with respect to the treatment field shall be provided at the control panel, by direct observation, or by electronic means, when wedge filters are used;
  - d. A display shall be provided at the treatment control panel showing the filter or filters in use;
  - e. Each filter that is removable from the system shall be clearly identified as to that filter's material of construction, thickness, and the nominal wedge angle for wedge filters, or a record tracing these factors for each filter shall be maintained at the system console; and
  - f. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.
4. Beam monitor. Equipment installed after the effective date of this Section shall be provided with at least one radiation detector in the radiation head. This detector shall be incorporated into a primary system so that all of the following criteria are met:
  - a. Each primary system shall have a detector that is a transmission detector and a full beam detector and that is placed on the patient side of any fixed added filters other than a wedge filter;
  - b. The detectors shall be removable only with tools and shall be interlocked to prevent incorrect positioning;
  - c. Each detector shall be capable of independently monitoring and controlling the useful beam;
  - d. Each detector shall form part of a dose-monitoring system from which the absorbed dose can be calculated at a reference point in the treatment volume;
  - e. Each dose monitoring system shall have a legible display at the treatment control panel that:
    - i. Maintains a reading until intentionally reset to zero;
    - ii. Has only one scale and no scale multiplying factors in replacement equipment; and
    - iii. Utilizes a design such that increasing dose is displayed by increasing numbers and is designed so that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all nominal conditions of use or foreseeable failures;
  - f. In the event of power failure, the dose monitoring information required in subsection (A)(4) displayed at the control panel at the time of failure shall be retrievable in at least one system; and
  - g. Selection and display of dose monitor units:
    - i. Irradiation shall not be possible until a selection of dose monitor units has been made at the treatment control panel.
    - ii. Each primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.
    - iii. Each secondary system shall terminate irradiation when 110 percent of the preselected number of dose monitor units has been detected by the system.
    - iv. It shall be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value

- during an interruption the equipment shall go to termination condition.
- v. It shall be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions at any time from the operator's position at the treatment control panel.
5. Beam monitoring system. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
    - a. Each beam monitoring system shall have a display at the treatment control panel that registers the accumulated monitor units.
    - b. The beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected by the system.
    - c. For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
    - d. In the event of a power failure, the display information required in subsection (A)(5)(a) shall be retained in at least one system following the power failure.
    - e. An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
    - f. For purposes of this rule:
      - i. "Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation if a preselected number of monitor units is accumulated.
      - ii. "Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.
  6. Treatment beam mode selection. In equipment capable of both x-ray and electron therapy:
    - a. Irradiation shall not be possible until a selection of radiation type is made at the treatment control panel;
    - b. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
    - c. An interlock system shall be available and in operating condition on a therapy machine, and shall be used to prevent unwanted x-ray or electron irradiation when preparing for, or performing radiation therapy procedures. The interlock system need not be available for use, if the therapy machine is only used to make an image of an inanimate object; and
    - d. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.
  7. Treatment beam energy selection. Equipment capable of generating radiation beams of different energies shall meet all of the following requirements:
    - a. Irradiation shall not be possible until a selection of energy is made at the treatment control panel;
    - b. An interlock system shall be provided to ensure that the equipment can emit only the energy of radiation that is selected;
    - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel; and
  - d. The energy selected shall be displayed at the treatment control panel before and during irradiation.
8. Selection of stationary or moving beam therapy. Equipment capable of both stationary and moving beam therapy modes shall meet all of the following requirements:
    - a. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy is made at the treatment control panel;
    - b. An interlock system shall be provided to ensure that the equipment can operate only in the mode that is selected;
    - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
    - d. An interlock system shall be provided to terminate irradiation if the movement stops during moving beam therapy;
    - e. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and
    - f. The mode of operation shall be displayed at the treatment control panel.
  9. Focal spot location and beam orientation. The registrant shall determine, or obtain from the manufacturer, the location in reference to an accessible point on the radiation head of all of the following:
    - a. The x-ray target or the virtual source of x-rays,
    - b. The electron window or the scattering foil, and
    - c. All possible orientations of the useful beam.
  10. System checking facilities. Capabilities shall be provided for checking of all safety interlock systems.
- B. Facility and shielding requirements.**
1. In addition to protective barriers sufficient to ensure compliance with R12-1-907, all of the following design requirements apply:
    - a. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;
    - b. The treatment control panel shall be located outside the treatment room;
    - c. Windows, mirrors, operable closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel;
    - d. Provision shall be made for two-way oral communication between the patient and the operator at the treatment control panel;
    - e. Each point of entry into the treatment room shall be provided with warning lights that will indicate when the useful beam is "on" in a readily observable position outside of the room; and
    - f. Interlocks shall be provided and shall result in all entrance doors being closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall be possible to restore the machine to operation only by closing the door and reinitiating exposure by manual action at the control panel.
  2. An authorized medical physicist, trained and experienced in the principles of radiation protection, shall perform a radiation protection survey on all installations before



Radiation Regulatory Agency

human use and after any change in an installation that might produce a radiation hazard. The authorized medical physicist shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Agency.

3. Calibrations.

- a. Calibration of the therapy system, including radiation output calibration, shall be performed before placing new installations into operation for the purpose of irradiation of patients. Subsequent calibrations shall be made at intervals not to exceed 12 months, and after any change that may cause the calibration of the therapy system to change.
- b. Calibration of the radiation output of the therapy beam shall be performed with an instrument that has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), within the preceding two years.
- c. Calibration of a particle accelerator shall be performed by, or under the supervision of an authorized medical physicist who meets the qualification requirements specified in R12-1-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Agency.
- d. Calibration of the therapy beam shall include, but not necessarily be limited to, all of the following determinations:
  - i. Verification that the equipment is operating within the design specifications concerning the light localizer, the side light and back pointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specific depths;
  - ii. The exposure rate or dose rate in air or at various depths of water for the range of field sizes used for each effective energy, and for each treatment distance used for radiation therapy;
  - iii. The congruence between the radiation field and the field defined by the localizing device;
  - iv. The uniformity of the radiation field and its dependency upon the direction of the useful beam; and
  - v. The calibration determinations above shall be provided in sufficient detail, to allow the absorbed dose to tissue in the useful beam to be calculated to within plus or minus 5 percent.
- e. Records of calibrations shall be maintained for three years following the date the calibration was performed.
- f. A copy of the current calibration report shall be available in the therapy facility for use by the operator, and the report shall contain the following information:
  - i. The action taken by the authorized medical physicist performing the calibration if it indicates a change has occurred since the last calibration,
  - ii. A listing of the persons informed of the change in calibration results, and
  - iii. A statement as to the effect the change in calibration has had on the therapy doses prior to the current calibration finding.

C. Spot checks.

1. The spot check procedures shall be in writing and shall have been developed by an authorized medical physicist trained and experienced in performing calibrations.
2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation dose delivered to a patient during a therapy procedure.
3. The written spot check procedure shall indicate the frequency at which tests or measurements are to be performed, not to exceed monthly.
4. The spot check procedure shall note conditions that require recalibration of the therapy system before further human irradiation.
5. Records of spot checks shall be maintained and available for inspection by the Agency for three years following the spot check measurements. Records of spot checks not performed by an authorized medical physicist shall be signed by an authorized medical physicist within 15 days of the spot check.

D. Operating procedures.

1. Only the patient shall be in the treatment room during irradiation.
2. If a patient must be held in position during treatment only, mechanical supporting or restraining devices shall be used for this purpose.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective August 8, 1986 (Supp. 86-4). New Section made by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-906. Limitations**

A. A registrant shall not permit an individual to act as:

1. A particle accelerator operator of any type unless the individual:
  - a. Has received copies of and instruction in this Article and the registrant's operating and emergency procedures,
  - b. Demonstrates an understanding of the material, and
  - c. Has demonstrated competence in the use the particle accelerator, related equipment, and survey instruments that will be employed during the operation of the particle accelerator;
2. A medical particle accelerator operator unless the individual is certified as required in A.R.S. § 32-2811 or the operator meets the requirements in R12-1-603(B); or
3. An industrial particle accelerator operator unless the individual has been instructed in radiation safety.

B. A registrant shall provide either the Radiation Safety Committee or the Radiation Safety Officer with the authority to terminate operations at a particle accelerator facility if this is necessary to protect health and safety or property.

C. If equipment is capable of both stationary and moving beam therapy, the registrant shall ensure that:

1. Irradiation is not possible unless either stationary or moving beam therapy has been selected at the control panel,
2. An interlock is provided to ensure that the machine will operate only in the mode that has been selected,

3. An interlock is provided that terminates irradiation if the gantry fails to move properly during moving beam therapy,
4. A means is provided to prevent movement during stationary therapy, and
5. The mode of operation is displayed at the control panel.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-907. Shielding and Safety Design**

- A. An authorized medical physicist experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Agency before an Agency inspection conducted according to R12-1-914.
- B. The registrant shall shield each particle accelerator installation with the primary and secondary protective barriers necessary to comply with R12-1-408 and R12-1-416.
- C. At the time of application for registration and before treatment of the first patient, the applicant shall provide to the Agency a copy of an installation report, signed by the contractor who installed required shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.
- D. As part of the annual radiation protection program review required in R12-1-407(C), the registrant shall document installed facility shielding and other radiation exposure controls, review patient workload, and note associated changes, if any, in public exposure that are the result of installed facility shielding, increased workload, and other radiation exposure controls in use at the time of the review.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsection (A) effective Aug. 8, 1986 (Supp. 86-4). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-908. Particle Accelerator Controls and Interlock Systems**

A registrant shall ensure that:

1. Instrumentation, readouts and controls on the particle accelerator control panel are clearly identified and easily discernible;
2. All entrances into the area that contains the particle accelerator room, target room, or other high radiation area, are provided with interlocks that shut down the machine if an entrance door is opened;
3. If an interlock system connected to an entrance door that provides access to the therapy suite has been tripped, it is not possible to resume operation of the particle accelerator by resetting the interlock switch at the entrance where it had been tripped;
4. Each safety interlock is on a circuit that allows it to operate independently of all other safety interlocks;
5. If possible, the interlock system is fail-safe in design, so that any defect or component failure in the interlock system prevents operation of the particle accelerator; and

6. A scram button or other emergency power cutoff switch is located and easily identifiable in the area that contains the particle accelerator. The registrant shall ensure that the scram button prevents persons from restarting the particle accelerator at the accelerator control panel without resetting the button or switch.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-909. Warning Systems**

A registrant shall ensure that:

1. High radiation areas and entrances to the high radiation areas in medical facilities are equipped with a continuously-operating warning light system that operates when, and only when, radiation is produced;
2. High radiation areas and entrances to the high radiation areas in nonmedical facilities are equipped with an easily-observable flashing or rotating warning light system that operates when, and only when, radiation is produced;
3. High radiation areas associated with nonmedical particle accelerators have an audible warning device that is activated for 15 seconds before creation of the high radiation area; and the warning device is clearly discernible in all high radiation areas and all radiation areas; and
4. High radiation areas associated with any particle accelerator are posted according to R12-1-428 and R12-1-429.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-910. Operating Procedures**

- A. A registrant shall secure from use a particle accelerator when it is not being used to prevent unauthorized use.
- B. A particle accelerator operator shall use the switch on the control panel to turn the accelerator beam on and off during normal operations. The safety interlock system may be used to turn off the accelerator beam in emergencies.
- C. A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain a record of each test for Agency inspection for at least three years from the date of the test.
- D. A registrant shall keep current electrical circuit diagrams of a particle accelerator and the associated interlock systems, and maintain the diagrams for inspection by the Agency.
- E. A registrant shall not bypass an interlock unless the by-pass is:
  1. Authorized in writing by the Radiation Safety Committee or Radiation Safety Office,
  2. Recorded in a permanent log with a notice of the by-pass posted at any affected interlock and at the control panel, and
  3. Terminated as soon as possible.
- F. A registrant shall maintain a copy of the current operating and emergency procedures at the particle accelerator control panel.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended subsection (D) effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-911. Radiation Surveys**

- A.** The registrant shall ensure that a portable survey instrument is available at all times in a particle accelerator facility.
- B.** An authorized medical physicist shall:
1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
  2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
  3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
  4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Agency at the time of application for registration.
- C.** The registrant shall maintain the following records:
1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in R12-1-202, until the registration is terminated; and
  2. Records of the surveys required in subsections (B)(3) and (4) for three years following the measurement.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective Aug. 8, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-912. Repealed****Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective Aug. 8, 1986 (Supp. 86-4). Amended effective June 13, 1997 (Supp. 97-2). Section repealed by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**R12-1-913. Misadministration**

- A.** For purposes of this rule "misadministration" means:
1. A therapeutic radiation dose from a machine:
    - a. Delivered to the wrong patient;
    - b. Delivered using the wrong mode of treatment;
    - c. Delivered to the wrong treatment site; or
    - d. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or
  2. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a misadministration.
- B.** Reports of therapy misadministration
1. Within 24 hours after discovery of a misadministration, a registrant shall notify the Agency by telephone. The reg-

istrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the referring physician or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.

2. Within 15 days following the verbal notification to the Agency, the registrant shall report, in writing, to the Agency and individuals notified under subsection (B)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all misadministrations for Agency inspection. The records shall:
  - a. Contain the names of all individuals involved in the event, including:
    - i. The physician,
    - ii. The allied health personnel,
    - iii. The patient,
    - iv. The patient's referring physician,
    - v. The patient's identification number if one has been assigned,
    - vi. A brief description of the event,
    - vii. The effect on the patient, and
    - viii. The action taken to prevent recurrence.
  - b. Be maintained for three years beyond the termination date of the affected registration.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1217, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine**

The Agency shall inspect a particle accelerator, used in the practice of medicine, before its initial use to treat human disease.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2).

**Appendix A. Quality Control Program**

- A. Mechanical Tests**
1. Patient support assembly motions
  2. Gantry angle indicators
  3. Optical distance indicators
  4. Alignment lights
  5. Congruence of radiation beam and light field
  6. Accuracy of field size indicators
  7. Mechanical isocenter- gantry and collimator
  8. Mechanical interlocks
- B. Radiation Beam Tests**
1. Machine operating parameters,
  2. Dose per monitor unit for x-ray and electron beams,

3. Dose per degree for moving beam therapy,
  4. Radiation isocenter,
  5. Flatness and symmetry,
  6. Wedge transmission factors,
  7. Shadow tray transmission factors,
  8. Energy check on central axis,
  9. Radiation output versus field size.
- C. Control Panel Checks**
1. Radiation "ON" condition,
  2. Indicator lamp check,
  3. Computer control of accelerator,
  4. Interlock display,
  5. Digital display,
  6. Analog display,
  7. Status display,
  8. Reset display.
- D. Facility Checks**
1. Patient audio-visual communication,
  2. Entrance door interlock,
  3. Warning lights,
  4. Emergency off button.
- E. Dose Output Check**
1. Each registrant shall use the services of a third party authorized medical physicist or third party TLD system to verify the accelerator's radiation output every two years.
  2. If the output check is not within plus or minus 5 percent of the calibrated output, the accelerator shall be recalibrated and the discrepancy investigated.
  3. Records of output checks shall be maintained for three years.
- F. Patient Dosimetry Calculation Checks**
1. Calculation of patient treatment times
  2. Computer calculation of patient treatment times

#### Historical Note

New Appendix made by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).  
Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

### ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS

#### R12-1-1001. Purpose and Scope

This Article establishes requirements for notices, instructions, and reports by licensees or registrants to individuals working for a licensee or registrant. This Article explains the options available to these individuals in connection with ARRA inspections of licensees or registrants regarding radiological working conditions. The rules in this Article apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered by the ARRA.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-1002. Posting of Notices for Workers

- A.** Each licensee or registrant shall post current copies of the following documents:
1. The rules in this Chapter;
  2. The license, certificate of registration, conditions, or documents incorporated into the license or registration by reference, and any amendments to the license or registration;
  3. The operating procedures applicable to work under the license or registration;
  4. Any notice of violation involving radiological working conditions, proposed imposition of a civil penalty, or

order issued under 12 A.A.C. 1, Article 12, and any response from the licensee or registrant.

- B.** If posting of a document specified in subsections (A)(1), (2) and (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- C.** Form ARRA-6 (shown following R12-1-1008), "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.
- D.** Each licensee or registrant shall post documents, notices, or forms, as required by this Section, so that they are conspicuous and appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies and shall replace any document if it is defaced or altered.
- E.** Agency documents posted as required in subsection (A)(4) shall be posted within two working days after receipt of the documents from the Agency; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-1003. Instructions for Workers

- A.** A licensee or registrant shall ensure that each individual who, in the course of employment, is likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem), receives instruction in all of the following subjects:
1. Storage, transfer, or use of radiation and radioactive material;
  2. Health protection problems associated with exposure to radiation or radioactive material, precautions or procedures to minimize exposure, and purposes and functions of protective devices;
  3. Applicable provisions in Agency rules, licenses, and registrations that protect of personnel from exposure to radiation or radioactive material, with an emphasis on the duties of workers;
  4. The duty to promptly report to the licensee or registrant any condition that may lead to or cause a violation of a provision in an Agency rule, license, or registration or unnecessary exposure to radiation or radioactive material;
  5. Correct response to warnings in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
  6. Radiation exposure reports that a worker may request according to R12-1-1004.
- B.** In determining whether subsection (A) applies to an individual, a licensee or registrant shall take into consideration assigned activities during normal and abnormal situations that involve exposure to radiation or radioactive material and could reasonably be expected to occur during the life of a facility. The licensee or registrant shall provide instruction that is commensurate with potential radiological health protection problems present in the work place.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by

final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).

#### **R12-1-1004. Notifications and Reports to Individuals**

- A.** A licensee or registrant shall report radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body to the individual as specified in this Section. The information reported shall include data and results obtained under Agency rules, orders, or license conditions, as shown in records maintained by the licensee or registrant. Each notification and report shall be in writing; include appropriate identifying data, such as the name of the licensee or registrant, the name of the individual, and the individual's Social Security number; include the individual's exposure information; and contain the following statement:

"This report is furnished to you under the provisions of 12 A.A.C. 1. You should preserve this report for future reference."

- B.** Each licensee or registrant shall provide annual notification of exposure to radiation or radioactive material for each worker, as shown in records maintained by the licensee or registrant under R12-1-419 (D).
- C.** At the request of a worker formerly engaged in work controlled by the licensee or the registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; the report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the Agency; and the report shall include the dates and locations of work under the license or registration in which the worker participated during this period.
- D.** Reports to individuals of their exposure to radiation shall be made according to R12-1-446.

#### **Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3) Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### **R12-1-1005. Licensee, Registrant, and Worker Representation During Agency Inspection**

- A.** As a condition of licensure or registration, each licensee or registrant shall afford to the Agency, at all reasonable times and without undue delay, an opportunity to inspect materials, machines, activities, facilities, premises, and records.
- B.** During an inspection, the licensee or registrant shall permit Agency inspectors to consult privately with workers as specified in Section R12-1-1006. The licensee or registrant may accompany Agency inspectors during other phases of an inspection.
- C.** A worker authorized to consult with an Agency inspector under R12-1-1006 may authorize another individual to represent the worker's interests during the Agency inspection. The licensee or registrant shall notify the inspectors of the worker's authorization and give the worker's representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- D.** Each worker's representative shall be routinely engaged in work under control of the licensee or registrant or shall have received instructions under R12-1-1003.

- E.** Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the inspection. However, only one worker's representative at a time may accompany the inspectors.
- F.** With the approval of the licensee or registrant and the worker's representative an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the worker's representative, shall be afforded the opportunity to accompany Agency inspectors during the inspection of physical working conditions.
- G.** Notwithstanding the other provisions of this Section, Agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information the worker's representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, any individual who accompanies an inspector may have access to such information only if authorized by the classifying agency.

#### **Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### **R12-1-1006. Consultation with Workers During Inspections**

- A.** A licensee or registrant shall afford Agency inspectors talking to a licensee or registrant representative the opportunity to consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Agency rules, licenses, and registrations to the extent the inspectors deem consultation necessary for conducting an effective and thorough inspection.
- B.** During the course of an inspection, any worker may privately bring to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or a license or registration condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. If this notification is in writing, the worker shall comply with the requirements of R12-1-1007(A).
- C.** The provisions of R12-1-1006(B) shall not be interpreted as authorization to disregard instructions required by R12-1-1003.

#### **Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### **R12-1-1007. Inspection Requests by Workers**

- A.** Any worker or representative of workers who believes that a violation of the Act, these rules, license, or registration conditions exists, or has occurred with regard to radiological working conditions in which the worker is engaged, may request an inspection of the facility by the Agency. Any request shall be in writing, addressed to the Director, set forth the specific grounds for the request, and be signed by the worker or representative of the workers. The Agency shall provide a copy to the licensee or registrant no later than at the time of inspection

except that, upon the request of the worker, the Agency shall protect the worker's name and the name of individuals referred to in the request to the extent authorized by law, except for good cause shown.

- B.** If, upon receipt of a request for inspection, the Agency's Director determines that there are reasonable grounds to believe that the alleged violation exists or has occurred, the Director shall initiate an inspection as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections performed under this subsection need not be limited to matters referred to in the complaint.
- C.** A licensee or registrant shall not discharge or in any manner discriminate against any worker because the worker has filed any complaint or caused to be instituted any proceeding under these rules or has testified or is about to testify in the instituted proceeding or because the worker exercises on behalf of the worker or others, any option afforded by this Article.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by

final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-1008. Inspection not Warranted; Review**

If the Agency determines, with respect to a complaint under R12-1-1007, that an inspection is not warranted or there are no reasonable grounds to believe that a violation exists or has occurred, the Agency shall notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written request for hearing to the Agency. The Agency shall provide for a hearing before the Radiation Regulatory Hearing Board under 12 A.A.C. 1, Article 12 and A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Amended effective February 25, 1985 (Supp. 85-1). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). R12-1-1008 updated to reflect a corrected Arizona Revised Statute article number (Supp. 07-1).

**Exhibit A. Form ARRA-6 (2012) Notice to Employees**  
**ARRA-6 (2012) ARIZONA RADIATION REGULATORY AGENCY**

## **NOTICE TO EMPLOYEES**

### **STANDARDS FOR PROTECTION AGAINST RADIATION; NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS**

In Article 4 of the Arizona Radiation Regulatory Agency (ARRA) rules for the Control of Radiation, the Arizona Radiation Regulatory Agency has established standards for your protection against radiation hazards. In Article 10 of the rules for the Control of Radiation, the Arizona Radiation Regulatory Agency has established certain provisions for the options of workers engaged in work under an ARRA license or registration.

#### **YOUR EMPLOYER'S RESPONSIBILITY**

Your employer is required to -

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Arizona Radiation Regulatory Agency rules, licenses, and operating procedures which apply to work you are engaged in, and explain their provisions to you.
3. Post notice of violation involving radiological working conditions, proposed imposition of civil penalties, and orders.

#### **YOUR RESPONSIBILITY AS A WORKER**

You should familiarize yourself with those provisions of the Arizona Radiation Regulatory Agency rules and the operating procedures which apply to the work you are engaged in. You should observe their provisions for your own protection and protection of your co-workers.

#### **WHAT IS COVERED BY THESE RULES**

1. Limits on exposure to radiation and radioactive material in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys, and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding ARRA inspections; and
7. Related matters.

#### **REPORTS ON YOUR RADIATION EXPOSURE HISTORY**

1. The Arizona Radiation Regulatory Agency rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit set forth in the rules or in the license. The basic limits for

exposure to employees are set forth in Article 4 of the rules. These Sections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,
  - a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures; and
  - b. Your employer must advise you annually of your exposure to radiation.

#### **INSPECTIONS**

All licensed or registered activities are subject to inspection by representatives of the Arizona Radiation Regulatory Agency. In addition, any worker or representative of workers who believes that there is a violation of the regulations issued thereunder, or the terms of the employer's license or rules with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Arizona Radiation Regulatory Agency. The request must set forth the specific grounds for the notice and must be signed by the worker on his own behalf or as a representative of the workers. During inspections, ARRA inspectors may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition which he believes contributed to or caused any violation as described above.

#### **INQUIRIES**

Inquiries dealing with the matters outlined above can be sent to the:  
**ARIZONA RADIATION REGULATORY AGENCY**

#### **POSTING REQUIREMENT**

IN ACCORDANCE WITH A.A.C. R12-1-1002, COPIES OF THIS NOTICE SHALL BE POSTED IN SUCH A MANNER TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA, USED FOR ACTIVITIES LICENSED OR REGISTERED PURSUANT TO ARTICLE 2 OR ARTICLE 3 OF THE AGENCY'S RULES, TO OBSERVE A COPY OR COPIES ON THE WAY TO OR FROM THEIR WORK AREA.

#### **Historical Note**

Exhibit A amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

#### **ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**

##### **R12-1-1101. Repealed**

##### **Historical Note**

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective June 13, 1997 (Supp. 97-2).

##### **R12-1-1102. Definitions**

"Access point" means any door or cover that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of a cabinet x-ray unit.

"Annual refresher safety training" means a review provided by the registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised statutes or rules, accidents, or errors that have occurred, and provide opportunities for employees to ask safety questions.

"Aperture" means any opening in the outside surface of a cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

"Door" means any barrier that is designed to be movable or opened for routine operation purposes, rather than opened

using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Hands-on experience” means the accumulation of knowledge or skill in any area relevant to radiography.

“Port” means any opening in the outside surface of a cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material that is being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation if the dimensions of the object do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, which includes use of all radiography equipment and tests knowledge of radiography procedures.

“Radiographic operations” means all activities associated with use of a radiographic x-ray system. This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective June 13, 1997 (Supp. 9702). New Section made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1).

#### R12-1-1103. Repealed

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective June 13, 1997 (Supp. 97-2).

#### R12-1-1104. Registration Requirements

- A. The Agency shall review an application for registration of a radiation machine for use in industrial radiography and approve the registration if an applicant meets all of the following requirements:
1. The applicant satisfies the general requirements in Article 2 and any special requirements contained in this Article,
  2. The applicant submits a program for training radiographer’s assistants that complies with R12-1-1146, and
  3. The applicant submits procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. An applicant shall submit written operating and emergency procedures, as prescribed in R12-1-1128.
- C. An applicant shall submit a description of a program for review of job performance of each radiographer and radiographer’s assistant at intervals that do not exceed six months, as prescribed in R12-1-1146(E).
- D. An applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. An applicant shall submit and list the qualifications of each individual designated as an RSO under R12-1-1120 and indicate which designee is responsible for ensuring that the registrant’s radiation safety program is implemented.
- F. If an applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used, the relevant experience of each person who will perform a calibration, and procedures to ensure that all calibrations are performed according to the procedures prescribed in R12-1-1108.
- G. An applicant shall identify and describe the location of all field stations and permanent radiographic installations.

- H. An applicant shall identify each location where records required by this Chapter will be maintained.

#### Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). Repealed effective June 13, 1997 (Supp. 97-2). New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-1105. Reserved

#### R12-1-1106. Equipment Performance

A registrant shall ensure that each x-ray machine has a lock or other security system designed to prevent unauthorized use or accidental production of radiation and is secured against unauthorized use at all times, except when under the direct surveillance of a radiographer or radiographer’s assistant.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-1107. Reserved

#### R12-1-1108. Radiation Survey Instruments

- A. A registrant shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A registrant shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
  2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
  3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A registrant shall make a record each time a radiation survey instrument is calibrated, and maintain each record for three years after it is made.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-1109. Reserved

#### R12-1-1110. Quarterly Inventory

- A. A registrant shall conduct a quarterly physical inventory to account for all x-ray machines received and possessed under the registration.
- B. A registrant shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required by subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, location of each x-ray machine, and manufacturer, model, and serial number of each x-ray machine.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).



**R12-1-1111. Reserved****R12-1-1112. Utilization Logs**

- A. A registrant shall maintain for each x-ray machine a utilization log that provides all of the following information:
1. A description, including the make, model, and serial number of each x-ray machine;
  2. The identity and signature of the radiographer using the machine; and
  3. The plant or site where the machine is used and dates of use, including each date when the machine is removed from or returned to storage.
- B. A registrant shall retain a log required by subsection (A) for three years after the log is made.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1113. Reserved****R12-1-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment**

- A. A registrant shall perform visual and operability checks on survey instruments and radiation machines before use on each day the equipment is to be used to ensure that the equipment is in good working condition and required labeling is present. Survey instrument operability checks shall be performed using check sources or other authorized means. If equipment problems are found, the registrant shall remove the equipment from service until it is repaired.
- B. A registrant shall have written inspection and maintenance procedures for radiation machines and survey instruments that require inspection and maintenance, at intervals that do not exceed three months or before first use of the equipment and to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are discovered, the registrant shall remove the equipment from service until the equipment is repaired.
- C. A registrant shall maintain records of equipment problems found in daily checks and quarterly inspections and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1115. Reserved****R12-1-1116. Surveillance**

During each radiographic operation a radiographer, or the radiographer's assistant as permitted by R12-1-1118, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the registrant is in compliance with R12-1-1136.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1117. Reserved****R12-1-1118. Industrial Radiographic Operations**

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a registrant shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R12-

1-1146. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The registrant shall not allow industrial radiography if only one qualified individual is present.

- B. A registrant shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the registration of a permanent radiographic installation, unless another permanent location is specifically authorized by the Agency.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1119. Reserved****R12-1-1120. Radiation Safety Officer (RSO)**

- A. A registrant shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. A registrant shall ensure that the RSO has satisfied the following minimum requirements:
1. The training and testing requirements in R12-1-1146;
  2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation; and
  3. Formal training in the establishment and maintenance of a radiation safety program.
- C. A registrant may use an individual in the position of RSO who does not have the training and experience required in subsection (B), if the registrant provides the Agency with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program.
- D. The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter, and reviewing the procedures every year to ensure that they conform to current Agency rules and registration conditions;
  2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
  3. Overseeing radiation surveys and associated documentation to ensure that the surveys are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
  4. Overseeing the personnel monitoring program to ensure that monitoring devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R12-1-444; and
  5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1121. Reserved****R12-1-1122. Form of Records**

A registrant shall maintain records in accordance with R12-1-405.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1123. Reserved****R12-1-1124. Reserved****R12-1-1125. Reserved****R12-1-1126. Posting**

A registrant shall post any area in which industrial radiography is being performed as required by R12-1-429. Exceptions listed in R12-1-430 do not apply to industrial radiographic operations.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1127. Reserved****R12-1-1128. Operating and Emergency Procedures**

- A.** A registrant shall have operating and emergency procedures that include, at minimum, instructions in the following, as applicable:
1. Use of radiation machines, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
  2. Methods and occasions for conducting radiation surveys;
  3. Methods for controlling access to radiographic areas;
  4. Methods and occasions for locking and securing a radiation machine;
  5. Personnel monitoring and associated equipment;
  6. Inspection, maintenance, and operability checks of a radiation machine and survey instruments;
  7. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
  8. Procedures for identifying and reporting defects and non-compliance, as required by R12-1-448;
  9. The procedure for notifying the RSO and the Agency in the event of an accident;
  10. Minimizing exposure of persons in the event of an accident, and
  11. Maintenance of records.
- B.** The registrant shall maintain copies of current operating and emergency procedures until the Agency terminates the registration. Superseded procedures shall be maintained for three years after a change is made. Additionally, records shall be maintained in accordance with R12-1-1138.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1129. Reserved****R12-1-1130. Personnel Monitoring**

- A.** An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarm or warning devices are in routine use, an alarm rate meter is not required.
1. A registrant shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and ensure that the dosimeters are recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.

2. The registrant shall assign a film badge, TLD, or OSL dosimeter to one individual, who shall wear the assigned equipment.
  3. The registrant shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.
  4. After replacement, the registrant shall ensure that each film badge or TLD is processed as soon as possible.
- B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift.
- C.** A registrant shall check each pocket dosimeter or electronic personnel dosimeter at least yearly for correct response to radiation, and discontinue use of a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.
- D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a registrant shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The registrant shall not allow the individual to work with a radiation machine until the individual's radiation exposure is determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).
- E.** If an individual's monitoring device is lost or damaged, the individual shall cease work immediately until the registrant provides a replacement film badge, TLD, or OSL dosimeter and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The registrant shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).
- F.** For each alarm rate meter a registrant shall ensure that:
1. At the start of a shift each individual with an alarm rate meter checks that the alarm functions (sounds) before using the device;
  2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr) with an accuracy of plus or minus 20% of the true radiation dose rate;
  3. A special means is necessary to change the preset alarm function on the device; and
  4. Each device is calibrated at periods that do not to exceed 12 months for correct response to radiation
- G.** Each registrant shall maintain the following personnel monitoring records:
1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made;
  2. A record of each alarm rate meter calibration for three years after the record is made;
  3. Any report received from the film badge, TLD, or OSL processor. The registrant shall maintain these records until the Agency terminates the registration; and
  4. Any estimation of an exposure evidenced by an off-scale personnel direct-reading dosimeter or a lost or damaged film badge, TLD, or OSL dosimeter. The records shall be maintained until the Agency terminates the registration.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1131. Reserved****R12-1-1132. Supervision of a Radiographer's Assistant**

If a radiographer's assistant uses a radiation machine or conducts a radiation survey required by R12-1-1134(B), the registrant shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the radiation machine is being used;
2. The radiographer is available to give immediate assistance if required; and
3. The radiographer is able to observe directly the assistant's performance.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1133. Reserved****R12-1-1134. Radiation Surveys**

- A. A registrant shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R12-1-1108.
- B. A registrant shall conduct a survey of a radiographic machine any time the machine is placed in storage to ensure that the machine will not expose personnel to radiation.
- C. A registrant shall maintain a record of each exposure survey conducted before a machine is placed in storage under subsection (B), if that survey is the last one performed during the workday. Each record shall be maintained for three years after it is made.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1135. Reserved****R12-1-1136. Permanent Radiographic Installations**

- A. If a registrant maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R12-1-102, the registrant shall ensure that each entrance used for personnel access to the high radiation area has either:
  1. An entrance control device of the type described in R12-1-420(A)(1), which reduces the radiation level upon entry into the area, or
  2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The registrant shall ensure that the visible signal is actuated by radiation if the x-ray tube is energized and the audible signal is actuated if a person attempts to enter the installation while the x-ray tube is energized.
- B. A registrant shall test the alarm system for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. The registrant shall test each device referenced in subsection (A)(1) monthly. If an entrance control device or alarm signal is operating improperly, the registrant shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The registrant may continue to use the facility during this seven-day period, if the registrant implements continuous surveillance requirements of R12-1-1116 and uses an alarm rate meter.
- C. A registrant shall maintain each record of alarm system and entrance control device tests for three years after the record is made.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1137. Reserved****R12-1-1138. Location of Documents and Records**

- A. A registrant shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at the location specified on the registration application.
- B. A registrant shall maintain a copy of the following at each field station and temporary job site:
  1. The registration that authorizes use of a radiation machines;
  2. A copy of Articles 4, 10, and 11 of this Chapter;
  3. Utilization logs for each radiation machine dispatched from that location, as required by R12-1-1112;
  4. Records of equipment problems identified in daily checks of equipment, as required by R12-1-1114;
  5. Records of alarm system and entrance control device checks, as required by R12-1-1136;
  6. Records of direct-reading dosimeters such as pocket dosimeters and electronic personnel dosimeters, as required by R12-1-1130;
  7. Operating and emergency procedures, as required by R12-1-1128;
  8. A report on the most recent calibration of the radiation survey instruments in use at the site, as required by R12-1-1108;
  9. A report on the most recent calibration of each alarm rate meter and operability check of each pocket dosimeter, or electronic personnel dosimeter, as required by R12-1-1130;
  10. Most recent survey record, as required by R12-1-1134; and
  11. If a registrant is operating in the state under R12-1-207, a copy of the out-of-state machine registration and a written authorization from the Agency to operate in the state.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1139. Reserved****R12-1-1140. Enclosed Radiography**

- A. The Agency has determined that any certified or certifiable cabinet x-ray system, as defined in Article 1, is exempt from the requirements of Article 11, provided that both of the following conditions are met:
  1. The registrant makes, or causes to be made, an evaluation of each certified and certifiable cabinet x-ray system, at intervals that do not exceed 12 months, to determine whether the system conforms to the standards for certified and certifiable cabinet x-ray systems defined in Article 1. Records of each evaluation shall be maintained for three years from the date the record is created; and
  2. The registrant performs a physical radiation survey with a survey instrument calibrated within the preceding 12 months and designed for the energy range and levels of radiation that will be assessed.
- B. A registrant with a cabinet x-ray system that is not exempt under subsection (A) shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
  1. Ensure that radiation levels measured at 5 centimeters (2 inches) from any accessible exterior surface of the enclosure do not exceed 50 microsievert (0.5 milliroentgen) in

- one hour for any combination of technical factors (i.e., mA, kVp);
2. Ensure that access to the interior of the enclosure is possible only through interlocked doors or panels that prevent production of radiation unless all interlocked doors or panels are securely closed. The registrant shall ensure that opening a door or panel results in immediate termination of radiation production and subsequent reactivation of the x-ray tube is only possible at the control panel;
  3. Provide visible warning signals, activated only during production of radiation, at the control panel and at each access point to the interior of the enclosure;
  4. Before using an x-ray system make, or cause to be made, an initial evaluation of the x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years, and
  5. Using instrumentation that complies with R12-1-1108, perform a physical radiation survey to satisfy the requirements of subsection (B)(4).
- C. A registrant with a shielded room x-ray systems shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Shield each x-ray room so that every location on the exterior meets the requirements for an "unrestricted area" as specified in R12-1-416;
  2. Provide access to the interior of a shielded x-ray room only through doors or panels that are interlocked. The registrant shall ensure that radiation production is possible only when all interlocked doors and panels are securely closed, opening of any interlocked door or panel results in immediate termination of radiation production; and subsequent reactivation of the x-ray tube is only possible at the control panel;
  3. Provide each access point with two interlocks, each on a separate circuit, so that failure of one interlock will not affect the performance of the other interlock;
  4. Provide visible warning signals, activated only during production of radiation at the control panel and each access point to the shielded room;
  5. Make, or cause to be made, an initial evaluation of each shielded room x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years;
  6. Perform radiation surveys to determine exposure with an instrument that meets the requirements of R12-1-1108;
  7. Inspect electrical interlocks and warning devices for correct operation before each use, and maintain a record of each inspection for two years;
  8. Not permit an individual to operate an x-ray machine for shielded room radiography unless the individual has received a copy of, and instruction in, the operating procedures and demonstrated competence in the safe use of the equipment;
  9. Ensure that an individual does not occupy the interior of any shielded room x-ray system during production of radiation;
  10. Provide personnel monitoring devices that meet the requirements of R12-1-1130 to each shielded room x-ray machine operator, and require that each operator use the devices;
  11. Maintain records of:
    - a. Quarterly inventories for mobile systems, as prescribed in R12-1-1110; and
    - b. Utilization logs for all systems, as prescribed in R12-1-1112; and
  12. Maintain records for three years from the date of the quarterly inventory or utilization log.
- D. A registrant shall connect an enclosed radiography machine to the electrical system in a manner that will prevent a ground fault from generating x-radiation.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1).

#### R12-1-1141. Reserved

#### R12-1-1142. Baggage and Package Inspection Systems

- A. For x-ray systems designed to screen carry-on baggage or packages at airlines, railroads, bus terminals, package inspection facilities, or similar facilities, a registrant shall ensure the x-ray system has an operator present at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B. For an exposure or preset succession of exposures of one-half second or greater duration, a registrant shall use a system that enables the operator to terminate the exposure or preset succession of exposures at any time.
- C. For an exposure or preset succession of exposures of less than one-half second duration, a registrant shall use a system that allows the operator to complete the exposure in progress, but prevent additional exposures.
- D. A registrant shall operate a baggage or package inspection system according to the manufacturer's instructions.
- E. A registrant shall not disconnect or otherwise tamper with the safety systems of a baggage or package inspection system, except for maintenance purposes.
- F. In addition to the requirements in this Section, a registrant using a baggage or package inspection system shall meet the requirements in R12-1-1140(A), (B), and (D).

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-1143. Reserved

#### R12-1-1144. Reserved

#### R12-1-1145. Reserved

#### R12-1-1146. Training

- A. A registrant shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
  1. A registrant shall provide the Agency with proof of an individual's certification upon request.
  2. A registrant shall maintain proof of an individual's certification at the job site where the individual is performing field radiography.
  3. A registrant that employs a certified radiographer in Arizona shall ensure that:
    - a. The radiographer has obtained initial certification or recertification within the last five years; and
    - b. An uncertified radiographer works only as a radiographer's assistant until certified.
  4. A radiographer shall recertify every five years by:

## Radiation Regulatory Agency

- a. Taking an approved radiography certification examination in accordance with this subsection; or
  - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
  6. A radiographer shall provide the registrant with proof of certification in the form of a card issued by the certifying organization that contains:
    - a. A picture of the certified radiographer,
    - b. The radiographer's certification number,
    - c. The date the certification expires, and
    - d. The radiographer's signature.
- B.** A registrant shall not allow an individual to act as a radiographer until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R12-1-107, the Agency registration or registrations under which the individual will perform industrial radiography, and the registrant's operating and emergency procedures;
  2. Demonstrates an understanding of the registrant's registration and operating and emergency procedures by successful completion of a written or oral examination that covers the relevant material;
  3. Receives training in:
    - a. Use of the registrant's radiation machine,
    - b. Daily inspection of the radiation machine, and
    - c. Use of radiation survey instruments; and
  4. Demonstrates an understanding of the use of the radiation machines and survey instruments described in subsection (B)(3) by successful completion of a practical examination covering this material.
- C.** A registrant shall not allow an individual to act as a radiographer's assistant until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R12-1-107, the Agency registration or registrations under which the radiographer will perform industrial radiography, and the registrant's operating and emergency procedures;
  2. Develops competence to use, under the personal supervision of the radiographer, the registrant's radiation machine and radiation survey instruments; and
  3. Demonstrates understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and demonstrates competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D.** A registrant shall provide refresher safety training for each radiographer and radiographer's assistant at intervals that do not exceed 12 months.
- E.** Except where an individual serves both as a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and ensure that the Agency's rules and registration requirements, and the registrant's operating and emergency procedures, are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
  2. Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, each radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and each radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before these workers can participate in a radiographic operation.
- F.** A registrant shall maintain records of the training required in this Section, including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G.** A registrant shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
    - a. Characteristics of x-ray radiation;
    - b. Units of radiation dose and quantity of radioactivity;
    - c. Hazards of exposure to radiation;
    - d. Levels of radiation from x-ray machines; and
    - e. Methods of controlling radiation dose (time, distance, and shielding);
  2. Radiation detection instruments, including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  3. Equipment topics, including:
    - a. Operation and control of radiation machines; and
    - b. Inspection and maintenance of each radiation machine and survey instrument;
  4. The requirements of pertinent Agency rules; and
  5. Case histories of accidents in radiography.
- H.** A registrant shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I.** A registrant shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
  2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of items checked during the inspection and any non-compliance observed by the RSO.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
2122, effective July 3, 2004 (Supp. 04-2).

**Appendix A. Standards for Organizations that Provide Radiography Certification**

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

**I. Requirements for an Organization that Provides Radiographer Certification**

To qualify to provide radiography certification, an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals, and determine sanctions;
- I. Have written procedures that describe all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Agency, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Agency of its procedures for choosing examination sites and providing a favorable examination environment.

## II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
  - 1. Obtain training in the subjects listed in R12-1-1146(G), and
  - 2. Satisfactorily complete a written examination that covers these subjects;
- B. Require an applicant for certification to provide documentation demonstrating that the applicant has:
  - 1. Received training in the subjects listed in R12-1-1146(G);
  - 2. Satisfactorily completed the on-the-job training required in R12-1-1146(A); and
  - 3. Received verification from a registrant that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;

- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

## III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R12-1-1146(G) or equivalent NRC or Agreement State requirements;
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R12-1-1146(G).

## Historical Note

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

## ARTICLE 12. ADMINISTRATIVE PROVISIONS

### R12-1-1201. Timeliness

- A. Any application, request, response, or report required by any rule, order, application, or letter shall be considered timely if it is postmarked on or before the due date, or hand-delivered to the Agency office before 5:00 p.m. on the due date. If the due date falls on a Saturday, a Sunday, or a legal holiday, the due date is extended to the end of the next day that is not a Saturday, a Sunday, or legal holiday.
- B. As used in this Article, "working days" are all days other than Saturdays, Sundays, or legal holidays prescribed in A.R.S. § 1-301.

## Historical Note

Adopted effective June 23, 1983 (Supp. 83-3). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

### R12-1-1202. Administrative Hearings

- A. All hearings shall be governed by Title 41, Chapter 6, Article 10.
- B. If the Radiation Regulatory Hearing Board is conducting a hearing, all motions and rulings shall be in writing, except those made during the hearing may be oral. The Board shall ensure that any agreements reached during a conference are incorporated in the record, and that all hearings are recorded.
- C. If it is necessary for an administrative law judge or the Board to visit the site of an alleged violation or activity that is regulated by the Agency in order to supplement testimonial or documentary evidence presented at the hearing, the party that proposed the visit shall enter the purpose of the visit and all pertinent observations into the record.

## Historical Note

Adopted effective June 23, 1983 (Supp. 83-3). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

### R12-1-1203. Procedures for Rulemaking Public Hearings

- A. Hearings on proposed rulemaking by the Agency shall be held before the Director or another person designated by the Director to act as the hearing officer.

- B. All hearings shall be governed by the Administrative Procedure Act, A.R.S. §§ 41-1021, 41-1021.01 through 41-1025, 41-1028, 41-1029, and 41-1031.
- C. The hearing shall be recorded and shall be retained as part of the record of the rulemaking.
- D. A written summary of the comments presented shall be prepared along with a written response to the comments by the Agency staff and retained with the record of the rulemaking.
- E. The request for hearing shall identify the rule involved or propose a new rule.

#### Historical Note

Adopted effective June 23, 1983 (Supp. 83-3). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

#### R12-1-1204. Initiation of Administrative Hearings

- A. An administrative hearing shall be initiated by the Director or commenced in response to the request of any person directly affected by an order of the Director or a proposed licensing or registration action by the Agency.
- B. If the Director initiates an administrative hearing pursuant to R12-1-1220, the order may incorporate a notice of hearing; otherwise a notice of any hearing and the notice of violation shall be issued separately.
- C. For any hearing on a proposed licensing or registration action, only a notice of hearing shall be issued.
- D. A notice of hearing shall specify the time, place, and nature of the hearing and may include specification of the legal authority and jurisdiction under which the hearing is to be held; the particular sections of the statutes, rules, or license conditions involved; the amount of the penalty and other sanctions proposed, if appropriate; and a statement of matters asserted and issues involved.
- E. A hearing may be requested by filing a written request for hearing with the Director within the time limit specified in the pertinent order or notice. A request for hearing on a regulatory action not subject to public notice requirements may be filed at any time, provided that a request to reconsider a licensing or registration action shall be filed within 30 days of the issuance of the licensing or registration action.
  1. The request for a hearing to appeal an order shall identify the order which the person desires to appeal and include a statement reciting the matters asserted, issues involved, and the applicable statutes or rules. The Agency shall respond within 30 calendar days to the person and forward the request and response to the Chairperson of the Board.
  2. The request for a hearing to appeal a licensing or registration action shall identify the action appealed. The Agency shall respond within 30 calendar days to the person and forward the request and response to the Chairperson of the Board.
  3. The request for hearing shall include a statement identifying the interest claimed to be affected by the action. If a statement is not provided or is clearly insufficient, the Chairperson may deny the request and notify the person of that action.
  4. If the request for hearing is denied for insufficiency, the requestor shall have five days from the notice of denial within which to file an amended request for hearing. The amended request shall refer back to the original request for hearing.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

#### R12-1-1205. Intervention in Administrative Hearings; Director as a Party

- A. Any person may submit a timely motion to intervene in a proceeding if an unconditional right to intervene is granted by law or the applicant claims an interest to any property or transaction affected by the proceeding.
- B. A motion to intervene shall be in writing and shall state the reason why the applicant should be allowed to intervene. If the applicant claims an interest in property or in a transaction affected by the proceeding, the applicant shall demonstrate that the result of the proceeding may as a practical matter impair or impede protection of that interest.
- C. The applicant shall serve the motion upon the administrative law judge or the Board, as appropriate, and the Director as a party at least five working days before the hearing. An application for leave to intervene shall not be granted, if by doing so, the issues will be unduly broadened.
- D. If two or more persons have substantially similar positions, the administrative law judge may declare them a class of interested persons for purposes of the hearing. The members of a class shall designate one person to be spokesperson for the class. More than one class may be established for a hearing.
- E. The Director is party to all administrative hearings.

#### Historical Note

Adopted effective June 23, 1983 (Supp. 83-3). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1206. Repealed

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1). Section repealed by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1207. Rehearing or Review

- A. The Board may grant a rehearing or review of a decision for any of the following reasons, materially affecting a party's rights:
  1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
  2. Misconduct of the Board, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceedings;
  7. That the decision is not justified by the evidence or is contrary to law.
- B. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons listed in subsection (A). An order modifying a decision or granting a rehearing shall specify with particularity the ground or grounds for the order. A rehearing shall cover only the subject matters specified in the order.
- C. No later than 15 working days after the date on the decision the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the

Board may grant a motion for rehearing or review for a reason not stated in the motion.

- D.** If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 30 calendar days after service, serve opposing affidavits. This period of time may be extended by the Board if good cause is shown or a written stipulation is received from both parties. The Board may permit reply affidavits.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1208. Repealed**

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1). Section repealed by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1209. Notice of Violation**

- A.** Except as provided in R12-1-1220, the Agency shall issue a notice of violation and provide time, as specified in R12-1-1210, for the registrant or licensee to respond before the Director issues any order to modify, suspend, or revoke a license or registration, or to impose a civil penalty.
- B.** The notice shall specify:
1. The severity level and circumstances of the alleged violation;
  2. The particular statute, rule, or registration or license condition violated; and
  3. The division of the registration or license.
- C.** The notice shall specify a civil penalty if one is proposed by the Agency.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 2584, effective June 8, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1210. Response to Notice of Violation**

- A.** Except as provided in subsection (D), within 30 calendar days of the date of the notice, or longer time period specified in the notice, the person charged with the violation shall submit a written response that includes a description of:
1. The actions taken to achieve compliance and the results of the actions;
  2. The actions that are proposed and the date when full compliance is expected to be achieved; and
  3. If the violation is a repeat violation, why corrective actions taken previously did not prevent the violation from recurring and why the new actions will be effective.
- B.** If the person charged with a violation submits a timely response, the Director, in consideration of the answer and the severity level of the violation, shall do one of the following:
1. Issue an initial order conditionally imposing the full amount of the proposed civil penalty and any other sanctions proposed;
  2. Issue an initial order conditionally mitigating or waiving the proposed civil penalty under R12-1-1214(B);
  3. Waive the penalty as authorized under R12-1-1216(C);
  4. Enter into a consent agreement as authorized under R12-1-1222.
- C.** If the Agency does not receive an adequate and timely response to the notice, the Director shall issue an initial order

conditionally imposing any or all sanctions and civil penalties proposed in the notice of violation. If no civil penalty was proposed, the initial order may impose the base civil penalty listed in R12-1-1216.

- D.** Response to the notice of violation as otherwise required in this Section may be waived by the Agency, if the Agency determines that a response is not required.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1211. Initial Orders**

- A.** Initial orders are valid for 30 calendar days after the date of the order, or until the other time specified in the order, during which time the person charged may:
1. Pay the civil penalty proposed and accept any proposed sanction, or
  2. Request a hearing before the Board.
- B.** If a timely request for a hearing is not received, the order shall become final.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-1212. Request for Hearing in Response to an Initial Order**

- A.** In a request for a hearing, a person charged with a violation shall include a statement of the issues and the explanations and the arguments supporting denial of the violation or demonstrating extenuating circumstances, errors in notice, or any other reasons for not imposing the civil penalty, sanction, or both.
- B.** The statement shall identify all issues. The failure to include an issue may, at the option of the Board, foreclose consideration of that issue. If a statement is not provided or is insufficient, the Board may summarily determine the issues.
- C.** The person charged may admit the violation and request a reduction of the proposed civil penalty based on extenuating circumstances.
- D.** The person charged may waive oral proceedings and request dismissal of any or all of the charged violations, reduction of the civil penalties, or modification of any other imposed sanction based on consideration by the Board of the written statement.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-1213. Severity Levels of Violations**

- A.** The following violations are classified as severity level I violations:
1. Any failure, malfunction, or insufficiency of a safety system which may result in
    - a. Radiation exposure to a person,
    - b. A concentration of radionuclides; or
    - c. A radiation level, in excess of 10 times the limits specified in 12 A.A.C.1, or 10 times the prescribed therapeutic patient dose.
  2. Any inaccurate or incomplete information that is intentionally provided by a licensee or registrant official, and if the information had been complete and accurate at the



time it was provided, would have likely resulted in action such as an immediate order required to protect the public health and safety.

3. Any information that the Agency requires be kept by a licensee or registrant that is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or registrant official, and if the information had been complete and accurate at the time it was reviewed by the Agency, would have likely resulted in action such as an immediate order required to protect the public health and safety.
  4. Any concealment or attempted concealment of a severity level I violation of the Act, 12 A.A.C. 1, or a license condition. This is a separate violation in addition to the original violation.
  5. Any concealment or attempted concealment of a severity level II violation of the Act, 12 A.A.C. 1, or a license condition. This violation shall increase the severity level of the original violation by one level.
  6. For the purposes of subsections (A)(2) and (3) above the term "licensee or registrant official" means the owner, a partner, a corporate officer, a radiation safety officer, the individual signing an application for a license or registration, or the chairman of any radiation safety committee supervising the radiation safety program of the licensee or registrant.
- B.** The following violations are classified as severity level II violations:
1. Any failure, malfunction, or insufficiency of a safety system which may result in:
    - a. Radiation exposure to a person,
    - b. A concentration of radionuclides, or
    - c. A radiation level in excess of two times the limits specified in 12 A.A.C. 1, or two times the prescribed therapeutic patient dose.
  2. Any attempt to prevent an Agency inspection.
  3. Any concealment or attempted concealment of a severity level III violation of the Act, 12 A.A.C. 1, or a license condition by a licensee or registrant official as defined in subsection (A)(6). This violation shall increase the severity level of the original violation by one level.
  4. Significant information provided and designated by a licensee or registrant and not previously provided to the Agency because of careless disregard on the part of a licensee official or registrant.
- C.** The following violations are classified as severity level III violations:
1. Any failure, malfunction, or insufficiency of a safety system, or loss of control over a radiation source, which may result in:
    - a. Radiation exposure to a person,
    - b. A concentration of radionuclides, or
    - c. A radiation level in excess of the limits specified in 12 A.A.C. 1, or 20% higher than the prescribed therapeutic patient dose.
  2. Any concealment or attempted concealment of a severity level IV or V violation of the Act, 12 A.A.C. 1, or a registration or license condition. This violation shall increase the severity level of the original violation by one level.
  3. Any violation of the safety requirements for the use, storage, disposal, or the preparation for transportation of sources of radiation, as prescribed in the Act, 12 A.A.C. 1, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I or II violation and the licensee or registrant does not main-

tain a radiation protection program meeting the requirements of R12-1-407.

4. Any factually incorrect statement upon which the Agency relied or would have relied in consideration of any action.
  5. Any unlawful attempt to interfere with the progress of an inspection by the Agency.
  6. The acquisition of any source of radiation without the applicable current registration or license, unless otherwise authorized by these rules; or use of the source outside the scope of the current registration or license.
  7. The continued use of sources of radiation after April 1, if the annual fee has not been paid for the current year.
- D.** The following violations are classified as severity level IV violations:
1. Any violation of R12-1-407;
  2. Any violation of the safety requirements for the use, storage, disposal, or preparation for transportation of sources of radiation, prescribed in the Act, 12 A.A.C. 1, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I, II or III violation;
  3. Failure to maintain records of mammography quality control tests required in R12-1-614.
  4. Any failure to comply with the reporting requirements in the Act or 12 A.A.C. 1.
- E.** The following violations are classified as severity level V violations:
1. Failure of a registrant or a licensee to comply with the recordkeeping requirements of:
    - a. The Act;
    - b. 12 A.A.C. 1; or
    - c. A registration or facility certification, or license condition, provided that all safety requirements prescribed in the Act, 12 A.A.C. 1, or in a license or registration condition are met or otherwise demonstrated.
  2. If compliance with all safety requirements cannot be demonstrated by the registrant or licensee the failure to comply with the recordkeeping requirements is classified as a level IV violation.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1214. Mitigating Factors

- A.** The Agency may refrain from issuing a Notice of Violation for Severity Level IV or V violations identified by the registrant or licensee provided the severity level IV or V violations are identified in an inspection report, the report includes a brief description of the corrective action, and the violation meets all of the following criteria:
1. It was identified by the licensee, as a result of an event discovered by the licensee or registrant;
  2. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
  3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the registrant or licensee by the end of the inspection. The corrective action shall include comprehensive measures that will prevent reoccurrence;
  4. It was not a willful violation or, if it was willful:

- a. The violation was reported to the Agency;
  - b. The violation appears to be the isolated action of an employee without management involvement and the violation was not caused by lack of management oversight;
  - c. Significant remedial action was taken by the licensee or registrant, demonstrating the seriousness of the violation to all affected personnel.
- B.** The Director may:
1. Reduce the scheduled civil penalty, including any augmentation, by 50% for the discovery, remedy, and voluntary reporting of a severity level I or II violation by the registrant or licensee; or
  2. Waive the scheduled civil penalty, including augmented civil penalties, for the discovery, remedy, and voluntary reporting of a severity level III, IV, or V violation by the registrant or licensee. For the purposes of this rule, "voluntary reporting" means that the registrant or licensee has notified the Agency of a violation, the reporting of which may or may not be required under 12 A.A.C. 1.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-1215. License and Registration Divisions

- A.** Each registrant or license type is classified into one of three administrative sanction divisions.
1. Division I licenses and registrations:
    - a. Broad Academic Class A,
    - b. Broad Academic Class B,
    - c. Broad Academic Class C,
    - d. Broad Industrial Class A,
    - e. Broad Medical,
    - f. Class C Laser Facility,
    - g. Distribution,
    - h. Fixed Gauge Class A,
    - i. Industrial Radiography Class A,
    - j. Low Level Radioactive Waste Disposal Site,
    - k. Major Accelerator Facility,
    - l. Medical Materials Class A,
    - m. Medical Teletherapy,
    - n. NORM Commercial Disposal Site,
    - o. Nuclear Laundry,
    - p. Nuclear Pharmacy,
    - q. Open Field Irradiator,
    - r. Secondary Uranium Recovery,
    - s. Waste Processor Class A,
    - t. Well Logging,
    - u. X-Ray Machine Class A.
  2. Division II licenses and registrations:
    - a. Broad Industrial Class B,
    - b. Broad Industrial Class C,
    - c. Class B Industrial Radiofrequency Facility,
    - d. Class B Laser Facility,
    - e. Class C Industrial Radiofrequency Facility,
    - f. Fixed Gauge Class B,
    - g. Health Physics Class A,
    - h. Industrial Radiation Machine,
    - i. Industrial Radiography Class B,
    - j. Laser Light Show,
    - k. Limited Academic,
    - l. Medical Imaging Facility,
    - m. Medical Laser,
    - n. Medical Materials Class B,
    - o. Medical Radiofrequency Device Facility,

- p. NORM Commercial Disposal Site,
  - q. Research and Development,
  - r. Self Shielded Irradiator,
  - s. Tanning Facility,
  - t. Waste Processor Class B,
  - u. X-Ray Machine Class B.
3. Division III licenses and registrations:
    - a. Class A Industrial Radiofrequency Facility,
    - b. Class A Laser Facility,
    - c. Gas Chromatograph,
    - d. General Depleted Uranium,
    - e. General Industrial,
    - f. General Medical,
    - g. General Veterinary Medicine,
    - h. Health Physics Class B,
    - i. Laboratory,
    - j. Leak Detector,
    - k. Limited Industrial,
    - l. Medical Materials Class C,
    - m. Other Ionizing Radiation Machine,
    - n. Other Nonionizing Radiation Machine,
    - o. Portable Gauge,
    - p. Possession Only,
    - q. Radioactive waste transfer-for-disposal,
    - r. Unclassified,
    - s. Veterinary Medicine,
    - t. X-ray Machine Class C.

- B.** Any person required by the Act to register the use of a general license with the Agency, or to obtain a specific license from the Agency, is considered a licensee of the appropriate type notwithstanding the failure of the person to register or obtain a license.
- C.** The Agency shall classify each person that possesses an out-of-state specific license for the use of radioactive material and operates in Arizona under reciprocal recognition, as prescribed in R12-1-320 and authorized in R12-1-1302(D)(16), by placing the person into the administrative sanction division listed in subsection (A) that best defines the out-of-state, licensed activities.
- D.** For administrative purposes, the following persons are classified with the Division III licensees and registrants in subsection (A)(3):
1. Any person not required to register the use of a general license,
  2. Any person not required to obtain a specific license,
  3. Any person not required to register a source of radiation who violates the Act or 12 A.A.C. 1, and
  4. Any person registered to provide x-ray machine service.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-1216. Civil Penalties

- A.** Except as augmented by R12-1-1217, the schedule of civil penalties is as follows:
1. Severity level I violations:
    - a. Division I registration or license -- \$4,000;
    - b. Division II registration or license -- \$3,000;
    - c. Division III registration or license -- \$2,000.
  2. Severity level II violations:

## Radiation Regulatory Agency

- a. Division I registration or license -- \$3,000;
  - b. Division II registration or license -- \$2,000;
  - c. Division III registration or license -- \$1,000.
- 3. Severity level III violations:
  - a. Division I registration or license -- \$2,000;
  - b. Division II registration or license -- \$1,000;
  - c. Division III registration or license -- \$500.
- 4. Severity level IV violations:
  - a. Division I registration or license -- \$1,000;
  - b. Division II registration or license -- \$500;
  - c. Division III registration or license -- \$250.
- 5. Severity level V violations:
  - a. Division I registration or license -- \$500,
  - b. Division II registration or license -- \$250,
  - c. Division III registration or license -- \$125.
- B. Payment of civil penalties for severity level I and severity level II violations may not be avoided merely by rectifying the condition; however, the Board may mitigate or waive the penalty upon determining a violation meets all of the following:
  - 1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
  - 2. It was or will be corrected within the time given for corrections, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
  - 3. It was not a willful violation.
- C. The Director or Board shall waive payment of penalties for severity level III through severity level V violations provided:
  - 1. The violation is not subject to augmentation under R12-1-1217; and
  - 2. The registrant or licensee submits a timely and adequate response to the notice; rectifies the conditions which appear to have caused the violation; and complies with the Act, 12 A.A.C. 1, registration, and license conditions.
- 1. If the same violation occurs three times within five years, the Agency shall increase the base civil penalty by 50%.
  - 2. If the same violation occurs four times within five years, the Agency shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R12-1-1219.
- F. If more than three severity level V violations are observed during two consecutive inspections, the Agency shall impose a civil penalty for each violation. The base civil penalty for each violation is the base civil penalty assessed for a severity level V violation. If the inspection shows repetition of a violation the base civil penalty for each repeat violation is the base civil penalty assessed for a severity level IV violation. Subsection (E) does not apply to penalties under this subsection.
- G. Other rights and procedures are not affected by the repeat nature of a violation.
- H. A person may avoid the penalties in subsections (D) and (E) by demonstrating to the Director in the response to the penalty that the violation meets all of the following criteria:
  - 1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
  - 2. It was or will be corrected within the time given for correction, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
  - 3. It was not a willful violation.
- I. Notwithstanding any other provision of this Section, the Agency shall not impose a penalty that exceeds a maximum of \$5,000 for each violation for each day up to a maximum of \$25,000 for any 30-day period.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
 Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1218. Payment of Civil Penalties**

- A. A person shall pay civil penalties imposed under this Article by certified check or money order payable to the Agency and mailed or delivered to the Agency at the address shown on the notice of violation.
- B. Payment of a civil penalty is due 30 calendar days after the effective date of the final order imposing the civil penalties, unless an alternate payment schedule is agreed upon before that date. A payment schedule shall not extend beyond one year after the due date.

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
 Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

**R12-1-1219. Additional Sanctions-Show Cause**

- A. If a severity level I violation is repeated or if any second severity level I violation is committed within 10 years, the Agency shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- B. If any second severity level II violation is committed within five years, or if a severity level II violation involving radioactive effluent releases, excessive radiation levels, or radiation overexposure to an individual is committed within five years of a similar severity level I violation, the Agency shall require

**Historical Note**

Adopted effective January 2, 1996 (Supp. 96-1).  
 Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1217. Augmentation of Civil Penalties**

- A. A continuing violation, for the purposes of calculating the proposed civil penalty, is considered a separate violation for each day it continues. The second (or successive) day of a continuing violation is not considered a repeat violation of the violation occurring on the first day.
- B. If a second severity level I violation is committed within five years, the Agency shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R12-1-1219.
- C. If a second severity level II violation is committed within a period of five years, the Agency shall increase the base civil penalty by 50%, provided the registration or license is not revoked under R12-1-1219.
- D. If a severity level III violation is repeated within five years, the Agency shall increase the base civil penalty by 50%. If the same severity level III violation is repeated a second time within five years, the base civil penalty shall be increased by 100%, provided the registration or license is not revoked under R12-1-1219.
- E. If a severity level IV violation is repeated within five years, the Agency shall propose the base civil penalty.

the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

- C. If repeated or different severity level III violations are committed on three separate occasions within any five year period, the Agency may require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1220. Escalated Enforcement

- A. The Director may issue an order to suspend, revoke, or modify a registration or license, or impound a radiation source for:
1. Any severity level I violation; or
  2. Any of the following occurring within a five-year period:
    - a. A repeat severity level II violation,
    - b. A different second severity level II violation, or
    - c. A severity level II violation after a severity level I violation.
- B. The Director may issue an order impounding the radiation source or suspending, revoking, or modifying the registration or license upon determining that conditions exist which cause a potential for a severity level I or severity level II violation.
- C. The Agency shall hold hearings according to A.R.S. § 30-688.
- D. An order to impound a radiation source, or an order to suspend, revoke, or modify a registration or a license shall remain in effect until the order is suspended or modified by the Board according to A.R.S. § 30-688.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemak-

ing at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1221. Reserved

#### R12-1-1222. Enforcement Conferences

- A. An enforcement conference consists of a meeting in person between management personnel of the registrant or licensee and the Agency.
- B. The enforcement conference is informal; however, the Agency shall make a record of items discussed and decisions reached. Statements made at the conference shall not be introduced in evidence at a formal hearing unless all parties have consented.
- C. Based on the results of the conference, the Agency may:
1. Dismiss the notice of violation;
  2. Enter into a consent agreement; or
  3. Continue with, or initiate, formal proceedings.

#### Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### R12-1-1223. Registration and Licensing Time-frames

The Agency shall perform an administrative completeness review and substantive review of an application for a new or renewal license or registration; or an amendment to a license or registration within the time-frames in Table A. The Agency shall review an application for an amendment to an existing license or registration that changes the license category listed in R12-1-1306, using the time-frames specified for the requested category.

#### Historical Note

Adopted effective December 9, 1998 (Supp. 98-4).  
Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**Table A. Registration and Licensing Time-frames**

#### REGISTRATION AND LICENSING TIME-FRAMES

License or Registration category in R12-1-1306	Administrative Completeness Review Time-frame, in days	Substantive Review Time-frame, in days	Overall Time-frame, in days
A1	90	30	120
A2	90	30	120
A3	90	30	120
A4	60	30	90
B1	90	30	120
B2	90	30	120
B3	90	30	120
B4	90	30	120
B5	90	30	120
B6	40	20	60
C1	60	30	90
C2	60	30	90
C3	60	30	90
C4	60	30	90
C5	60	30	90
C6	60	30	90
C7	60	30	90
C8	90	30	120
C9	60	30	90

Radiation Regulatory Agency

C10	40	20	60
C11	90	30	120
C12	90	30	120
C13	90	30	120
C14	90	30	120
C15	90	30	120
C16	90	30	120
C17	90	30	120
D1	90	30	120
D2	90	30	120
D3	90	30	120
D4	40	20	60
D5	40	20	60
D6	90	30	120
D7	40	20	60
D8	60	30	90
D9	90	30	120
D10	90	30	120
D11	1095	365	1460
D12	730	180	910
D13	365	90	455
D14	90	30	120
D15	40	20	60
D16	20	10	30
D17	40	20	60
D18	90	30	120
D19	365	120	485
E1	40	20	60
E2	40	20	60
E3	40	20	60
E4	40	20	60
E5	90	30	120
E6	90	30	120
F1	40	20	60
F2	40	20	60
F3	40	20	60
F4	40	20	60
F5	20	10	30
F6	40	20	60
F7	40	20	60
F8	40	20	60
F9	40	20	60
F10	40	20	60
F11	40	20	60
F12	90	30	120

Footnote: “administrative completeness review time-frame”; “substantive review time-frame,” and “overall time-frame” are defined in A.R.S. § 41-1072.

**Historical Note**

Adopted effective December 9, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**ARTICLE 13. LICENSE AND REGISTRATION FEES**

**R12-1-1301. Definition**

“Combined” means the Agency has granted authorized activities contained in two or more license types in a single license document,

requiring the payment of a single license fee for the more expensive license of the planned combination.

**Historical Note**

Adopted effective November 19, 1982 (Supp. 82-6).  
Amended effective November 28, 1983 (Supp. 83-6).

Amended subsection (B) and added a new subsection (C) effective November 28, 1986 (Supp. 86-6). Section repealed, new Section adopted effective November 5, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### **R12-1-1302. License and Registration Categories**

**A.** Category A licenses are those specific licenses which authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.

1. A broad academic class A license is any category A license which meets the specifications of R12-1-310(A)(1).
2. A broad academic class B license is any category A license other than a broad academic class A license which meets the specifications of R12-1-310(A)(2).
3. A broad academic class C license is any category A license other than a broad academic class A or B license which meets the specifications of R12-1-310(A)(3).
4. A limited academic license is any category A license which authorizes only those radioisotopes, forms, and quantities individually specified in the license.

**B.** Category B licenses are those specific or general licenses which authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing. Except for a type B6, general medical license, the Agency shall not combine a category B license with a license of any other category.

1. A broad medical license is any category B license which meets the specifications of R12-1-310(A)(1) and meets the requirements of 12 A.A.C. 1, Article 7. A broad medical license may authorize any medical use other than teletherapy.
2. A medical materials class A license is any specific category B license other than a broad medical license, which authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities which require hospitalization of the patient for radiation safety purposes. The license may authorize other radioactive materials and other medical uses, except teletherapy.
3. A medical materials class B license is any specific category B license which authorizes the diagnostic or therapeutic use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.
4. A medical materials class C license is any specific category B license which authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
5. A medical teletherapy license is a specific category B license which solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy. The Agency shall not combine a medical teletherapy license with any other type of category B license.
6. A general medical license is a registration of the use of radioactive material pursuant to R12-1-306(E) or R12-1-306(F). A general medical license may be combined into a broad medical, medical materials class A, or medical materials class B license.

**C.** Category C licenses are those specific or general licenses authorizing the use of radioactive materials in any activity other than those authorized by a category A, B, or D license. Except as specifically authorized in this Section, the Agency

shall not combine a category C license with any other type of license.

1. A broad industrial class A license is any category C license which meets the specifications of R12-1-310(A)(1). The Agency may combine a broad industrial class A license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
2. A broad industrial class B license is any category C license other than a broad industrial class A license which meets the specifications of R12-1-310(A)(2). The Agency may combine a broad industrial class B license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
3. A broad industrial class C license is any category C license other than a broad industrial class A or B license which meets the specifications of R12-1-310(A)(3). The Agency may combine a broad industrial class C license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
4. A limited industrial license is a specific category C license authorizing the possession of the radioactive materials authorized in R12-1-305(A), or R12-1-306(A), (B), (D) or (G) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.
5. A portable gauge license is a specific category C license which authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Agency may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
6. A fixed gauge class A license is a specific category C license which authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
7. A fixed gauge class B license is a specific category C license which authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
8. A leak detector license is a specific category C license which authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
9. A gas chromatograph license is a specific category C license which authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
10. A general industrial license means a registration of the use of a material, source, or device generally licensed pursuant to R12-1-305 or R12-1-306, except R12-1-305(C), R12-1-306(E), or R12-1-306(F).
11. An industrial radiography class A license is a specific category C license which authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
12. An industrial radiography class B license is a specific category C license which authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
13. An open field irradiator license is a specific category C license authorizing the use of radioisotopes in the form of

## Radiation Regulatory Agency

- sealed sources not permanently mounted within a shielding container, for irradiation of materials.
14. A self-shielded irradiator license is a specific category C license authorizing the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Agency may combine a self-shielded irradiator license with any broad license.
  15. A well logging license is a specific category C license which authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
  16. A research and development license is a specific category C license which authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
  17. A laboratory license is a specific category C license which authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R12-1-306.
- D.** Category D licenses are the following specific radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the Agency shall not combine a category D license with any other license.
1. A distribution license is one which authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Agency shall ensure that a distribution license does not:
    - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
    - b. Authorize any other use of the radioactive material. An appropriate category C license is required for possession of radioisotopes and their incorporation into products.
  2. A nuclear pharmacy license is one which authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
  3. A nuclear laundry license is one authorizing the collection and cleaning of items contaminated with radioactive materials.
  4. A general industrial license is a registration of a gauging device in accordance with R12-1-306(B). The Agency may combine a general industrial license with a Class A, B, or C broad industrial, limited industrial, portable gauge, or Class A or B fixed gauge license.
  5. A depleted uranium general license is a registration of the use of the general license authorized pursuant to R12-1-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Agency may combine a depleted uranium general license with a medical teletherapy; Class A, B, or C broad industrial; portable gauge; Class A or B fixed gauge; Class A or B industrial radiography; or self-shielded irradiator license. For registration purposes an applicant shall follow the registration instructions in R12-1-305(C).
  6. A veterinary medicine license is one which authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
  7. A general veterinary medicine license is a registration of the use of the general license authorized in R12-1-306(F) in veterinary medicine.
  8. A health physics class A license is one which authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services.
  9. A health physics class B license is one which authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.
  10. A secondary uranium recovery license is one which authorizes the extraction of natural uranium or thorium from an ore stream or tailing which is being or has been processed primarily for the extraction of another mineral. The Agency shall not combine a secondary uranium recovery license with any other license.
  11. A low-level, radioactive waste disposal facility license is a license that is issued for a "disposal facility," as that term is used in R12-1-439 and R12-1-442, which has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Agency, and contains no future editions or amendments.
  12. A waste processor class A license is one authorizing the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Agency shall not combine a waste processor class A license with any other license.
  13. A waste processor class B license is one which authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into over-packs. The Agency shall not combine a waste processor class B license with any other license.
  14. An additional facility license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
  15. A possession-only license is a license of any other category which authorizes only the possession in storage, but no use of, the authorized materials. A license which has been suspended as an enforcement action is not considered a possession-only license.
  16. A reciprocal license is the registration of the general license authorized by R12-1-320. This license is subject to a special fee as provided by R12-1-1307 but is exempt from annual fees.
  17. Reserved
  18. An "unclassified" radioactive material license is one authorizing radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
  19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.

**E.** Category E registrations are those that register the possession of x-ray machine(s) under 12 A.A.C. 1, Article 2. The Agency shall not combine Category E registrations with any other registration.

1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, and veterinarian offices or clinics.
4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
6. A radiation machine, "other," is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E) of this Section.

**F.** Category F registrations are those that register nonionizing radiation producing sources regulated under 12 A.A.C. 1, Article 14. The Agency shall not combine Category F registrations with any other registration.

1. A tanning registration authorizes the commercial operation of any number of tanning booths, beds, cabinets, or other devices in a single establishment.
2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R12-1-1433.
3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R12-1-1433.
4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R12-1-1433.
5. A laser light show registration authorizes the operation of a laser device subject to R12-1-1441.
6. A medical laser registration authorizes the operation of one or more laser devices subject to R12-1-1440.
7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R12-1-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
8. A medical radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices.
9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency heat sealers or industrial microwave ovens.
10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency heat sealers or industrial microwave ovens.
11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency heat sealers or industrial microwave ovens.
12. An "other" nonionizing radiation device authorizes the operation of a nonionizing radiation device or other device not included in any other category specified in subsection (F).

#### Historical Note

Adopted effective November 19, 1982 (Supp. 82-6).  
 Amended effective November 28, 1983 (Supp. 83-6).  
 Section repealed, new Section adopted effective November 5, 1993 (Supp. 93-4). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).  
 Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).  
 Amended by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (05-1). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4).  
 Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

#### R12-1-1303. Fee for Initial License and Initial Registration

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R12-1-1306.

#### Historical Note

Adopted effective November 19, 1982 (Supp. 82-6).  
 Amended effective November 28, 1983 (Supp. 83-6).  
 Amended subsections (A), (C), and (D) effective November 28, 1986 (Supp. 86-6). Section repealed, new Section adopted effective November 5, 1993 (Supp. 93-4).  
 Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

#### R12-1-1304. Annual Fees for Licenses and Registrations

- A.** Each license or registration issued by the Agency shall identify the category by a letter and number corresponding to the appropriate subsection of R12-1-1302 or category type listed in R12-1-1306.
- B.** Except for types D16 and D17, each licensee or registrant shall submit payment of the annual fee in the amount prescribed in R12-1-1306(A) on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C.** If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.
- D.** If a licensee or registrant fails to pay the annual fee by April 1, the Agency shall apply administrative sanction provisions of 12 A.A.C. 1, Article 12.
- E.** A licensee who is required to pay an annual fee under this Article may qualify as a small entity. If a licensee qualifies as a small entity and provides the Agency with proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in Table 1 to this Article. Failure to file a small entity certification in a timely manner may result in the denial of any refund.

#### Historical Note

Adopted effective November 5, 1993 (Supp. 93-4).  
 Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

#### R12-1-1305. Method of Payment

- A.** An applicant licensee or registrant shall pay fees by check or money order, payable to the "State of Arizona" at the address shown on the application, license, registration, or renewal notice.
- B.** Once a license or registration has been issued, no portion of the application fee or any annual fee will be refunded.



## Radiation Regulatory Agency

**Historical Note**

Adopted effective November 5, 1993 (Supp. 93-4).  
Amended by final rulemaking at 5 A.A.R. 1817, effective  
May 12, 1999 (Supp. 99-2).

**R12-1-1306. Table of Fees**

A. The application and annual fee for each category and type are shown in Table 13-1.

Table 13-1

Category	Type	Annual fee
A1.	Broad academic class A . . . . .	\$5,800
A2.	Broad academic class B . . . . .	\$5,800
A3.	Broad academic class C . . . . .	\$5,800
A4.	Limited academic . . . . .	\$1,000
B1.	Broad medical . . . . .	\$11,000
B2.	Medical materials class A . . . . .	\$1,900
B3.	Medical materials class B . . . . .	\$1,900
B4.	Medical materials class C . . . . .	\$1,900
B5.	Medical teletherapy . . . . .	\$5,200
B6.	General medical . . . . .	\$250
C1.	Broad industrial class A . . . . .	\$11,400
C2.	Broad industrial class B . . . . .	\$11,400
C3.	Broad industrial class C . . . . .	\$3,200
C4.	Limited industrial . . . . .	\$700
C5.	Portable gauge . . . . .	\$1,000
C6.	Fixed gauge class A . . . . .	\$1,000
C7.	Fixed gauge class B . . . . .	\$1,000
C8.	Leak detector . . . . .	\$1,330
C9.	Gas chromatograph . . . . .	\$1,000
C10.	General industrial . . . . .	No Fee
C11.	Industrial radiography class A . . . . .	\$5,500
C12.	Industrial radiography class B . . . . .	\$5,500
C13.	Open field irradiator . . . . .	\$3,000
C14.	Self-shielded irradiator . . . . .	\$1,500
C15.	Well logging . . . . .	\$2,000
C16.	Research and development . . . . .	\$2,100
C17.	Laboratory . . . . .	\$1,000
D1.	Distribution . . . . .	\$2,600
D2.	Nuclear pharmacy . . . . .	\$4,600
D3.	Nuclear laundry . . . . .	\$10,300
D4.	General industrial (with fee) . . . . .	\$300
D5.	General depleted uranium . . . . .	\$200
D6.	Veterinary medicine . . . . .	\$1,000
D7.	General veterinary medicine . . . . .	\$200
D8.	Health physics class A . . . . .	\$3,200
D9.	Health physics class B . . . . .	\$1,000
D10.	Secondary uranium recovery . . . . .	\$5,100
D11.	Low-level radioactive waste disposal site . . . . .	(3)
D12.	Waste processor class A . . . . .	\$4,600
D13.	Waste processor class B . . . . .	\$3,600
D14.	Additional storage and use site . . . . .	(1)
D15.	Possession only . . . . .	(2)
D16.	Reciprocal . . . . .	(3)
D17.	Reserved	
D18.	Unclassified . . . . .	Full Cost
D19.	NORM commercial disposal site . . . . .	\$600,000
E1.	X-ray machine class A (per tube) . . . . .	\$75
E2.	X-ray machine class B (per tube) . . . . .	\$51
E3.	X-ray machine class C (per tube) . . . . .	\$42
E4.	Industrial radiation machine	

	(per device) . . . . .	\$42
E5.	Accelerator facility . . . . .	\$750
E6.	Other ionizing radiation machine	Full Cost
F1.	Tanning device (per device) . . . . .	\$28
F2.	Class A (1 to 10 laser devices) . . . . .	\$175
F3.	Class B (11 to 49 laser devices) . . . . .	\$408
F4.	Class C (50 or more laser devices) . . . . .	\$699
F5.	Laser light show or laser demonstration . . . . .	\$408
F6.	Medical laser (per laser device) . . . . .	\$47
F7.	Class II surgical (per device) . . . . .	\$47
F8.	Medical RF (per device) . . . . .	\$47
F9.	Class A industrial (1 to 5 radiofrequency devices) . . . . .	\$70
F10.	Class B industrial (6 to 20 radiofrequency devices) . . . . .	\$210
F11.	Class C industrial more than 20 radiofrequency devices) . . . . .	\$349
F12.	Other nonionizing radiation device or other device . . . . .	Full Cost

- Notes: (1) An additional 30% of the annual base fee is added to the annual base fee for each additional site.  
(2) The fee is 50% of the annual base fee for the category under which the radioactive material will be stored.  
(3) See R12-1-1307.

- B. The application fee for a licensee or registrant is the annual fee as shown in R12-1-1306. "Full Cost" is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Agency shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Agency will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Agency costs for the requested activity exceed \$10,000.
- C. The annual fee for a licensee or registrant for which the scheduled fee is "Full Cost" is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

**Historical Note**

Amended effective November 5, 1993 (Supp. 93-4).  
Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 12 A.A.R. 75, effective February 7, 2006 (Supp. 05-4). Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

**R12-1-1307. Special License Fees**

- A. The fee for a Type D16 license providing reciprocal recognition under R12-1-320 of a radioactive materials license issued by the U.S. NRC or another state is half of the annual fee for an Arizona license of the appropriate type. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- B. For a low-level radioactive waste disposal site the initial application fee is \$6,000,000. The annual fee for the second

through fifth years is \$6,000,000. The Agency shall promulgate a new fee rule for years subsequent to year five. Based on data gathered during the first five years, the Agency shall set a reasonable fee after consideration of the following factors:

1. Unrecovered costs which the Agency may charge under A.R.S. § 30-654(B)(18).
2. Actual costs incurred by the Agency.

#### Historical Note

Adopted effective November 5, 1993 (Supp. 93-4).  
Amended effective January 2, 1996 (Supp. 96-1).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

#### R12-1-1308. Fee for Requested Inspections

- A. A licensee or registrant may request an inspection of its facility at any time. The Agency shall assess the licensee or registrant the full cost of the inspection, based on personnel time for preparation, travel, onsite inspection, review of findings, and preparation of a report, charged at \$99 per hour and mileage charged at 44.5¢ per mile.
- B. The fee specified in this Section does not apply to:
  1. Regular inspections as scheduled by the Agency,
  2. Enforcement reinspections conducted to ensure the correction of violations or safety hazards, or
  3. Inspections requested by workers pursuant to R12-1-1007.

#### Historical Note

Adopted effective November 5, 1993 (Supp. 93-4).  
Amended by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2). Amended by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

#### R12-1-1309. Abandonment of License or Registration Application

- A. Any license or registration application for which the applicant has been provided a written notification of deficiencies in the application and for which the applicant does not make a written attempt to supply the requested information or request an extension in writing within 90 days of the date of the written notice of deficiencies, is considered abandoned and will not be processed.
- B. If an applicant does not act in the time-frame specified in subsection (A), the applicant shall submit a new application with the appropriate fee.

#### Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 1817, effective May 12, 1999 (Supp. 99-2).

#### Table 1. Small Entity Fees<sup>1</sup>

Small Businesses Not Engaged in Manufacturing and Small Not-for-profit Organizations (Gross Annual Receipts, three-year average):

>\$6.5 million	Pay the fee listed in R12-1-1306
\$350,000 to \$6.5 million	\$2,200
<\$350,000	\$500

Manufacturing Entities that Have an Annual Average of 500 Employees or Less:

>500 employees	Pay the fee listed in R12-1-1306
35 to 500 employees	\$2,200
<35 employees	\$500

Small Government Jurisdictions (including publicly supported educational institutions) (Population in Jurisdiction):

>50,000	Pay the fee listed in R12-1-1306
20,000 to 50,000	\$2,200
<20,000	\$500

Educational Institutions that Are Not State or Publicly Supported, and Have 500 Employees or Less:

>500 employees	Pay the fee listed in R12-1-1306
35 to 500 employees	\$2,200
<35 employees	\$500

1. A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under R12-1-1304 as shown in R12-1-1306 must file a certification statement with the Agency each year. The licensee must file the required certification on Agency Form 333 for each license under which it was billed. Agency Form 333 can be accessed through the Agency web site at <http://www.azrra.gov>. For licensees who cannot access the Agency web site, Agency Form 333 may be obtained by writing to the Agency or by telephoning the Agency at (602) 255-4845, or by e-mailing the Agency at [webcontactform@arrawebsite.com](mailto:webcontactform@arrawebsite.com).

#### Historical Note

New Table made by exempt rulemaking at 14 A.A.R. 4243, effective November 17, 2008 (Supp. 08-4).

### ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION

#### R12-1-1401. Registration of Nonionizing Radiation Sources and Service Providers

- A. A person shall not use a nonexempt nonionizing radiation source, unless the source is registered by the Agency.
- B. A person who possesses a nonexempt nonionizing source shall submit to the Agency an application for registration within 30 days of its first use.
  1. A person who possesses a nonexempt source listed in R12-1-1302(F) shall register the source with the Agency.
  2. A person applying for the registration of a nonexempt source shall use an application form provided by the Agency.
  3. An applicant shall provide the information identified in Appendix B of this Article.
- C. A registrant shall notify the Agency within 30 days of any change to the information contained in the registration, or sale of a source that results in termination of the activities conducted under the registration.
- D. In addition to the application form, an applicant shall remit the applicable registration fee, specified in R12-1-1306.
- E. A person who is operating more than one facility, where one or more nonexempt nonionizing sources are used, shall apply for a separate registration for each facility.

- F. A person in the business of installing or servicing nonexempt nonionizing sources shall apply to the Agency for registration 30 days before furnishing the service. The person shall apply for registration on a form furnished by the Agency and shall provide the information required by A.R.S. § 30-672.01.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1). New Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-1402. Definitions

##### General definitions:

“Controlled area” means any area to which human access is restricted for the purpose of protection from nonionizing radiation.

“Direct supervision” means that a licensed practitioner supervises the use of a source for medical purposes while the practitioner is present inside the facility where the source is being used.

“Indirect supervision” means: for lasers or IPL devices used for hair removal procedures, there is at a minimum, responsible supervision and control by a licensed practitioner who is easily accessible by telecommunication.

“Licensed practitioner” (See R12-1-102)

“Medical director” means a licensed practitioner, as defined in R12-1-102, who delegates a laser, IPL, or other light-emitting medical device procedure to a non-physician and is qualified to perform the procedure within the scope of practice of the license.

“Nonexempt nonionizing source” means any system or device that contains a nonionizing source listed in R12-1-1302(F).

“Operator” means a person who is trained in accordance with this Article and knowledgeable about the control and function of a nonionizing device regulated under this Article.

“Other cosmetic procedure” means a method of using medical lasers or intense pulse light (IPL) devices approved by the Federal Food and Drug Administration (FDA), for the cosmetic purpose of spider vein removal, skin rejuvenation, non-ablative skin resurfacing, skin resurfacing, port wine stain removal, epidermal pigmented skin lesion removal, or tattoo removal; and does not include hair removal.

##### Laser definitions:

“Accessible emission limit (AEL)” means the maximum accessible emission level of laser or collateral radiation permitted within a particular class.

“Accessible radiation” means laser or collateral radiation to which human access is possible.

“Angular subtense” means the apparent visual angle,  $\alpha$ , as calculated from the source size and distance from the eye.

“Aperture” means an opening in the protective housing or other enclosure of a laser product, through which laser or collateral radiation is emitted, allowing human access to the radiation.

“Aperture stop” means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

“Certified laser product” means that the product is certified by a manufacturer in accordance with the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

“CDRH” means the Center for Devices and Radiological Health.

“Classes of lasers” means the following categories of lasers, defined in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency: Class 1, Class 2, Class 2a, Class 3, Class 3a, Class 3b, and Class 4. This incorporation by reference contains no future editions or amendments.

“Collateral radiation” means any electronic product radiation, except laser radiation, emitted by a laser product as a result of operation of the laser or any component of the laser product that is physically necessary for operation of the laser. The accessible emission limits for collateral radiation are specified in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

“Continuous wave” (cw) means the output of a laser that is operated in a continuous rather than a pulsed mode. For purposes of this Article, a laser operating with a continuous output for a period  $\geq 0.25$  seconds, is regarded as a cw laser.

“Cosmetic procedure protocol” means a delegated written authorization to select specific laser or IPL settings, initiate a laser or IPL procedure, and conduct necessary follow-up procedures.

“Demonstration laser” means any laser manufactured, designed, intended, or used for purposes of demonstration, entertainment, advertising display, or artistic composition.

“Embedded laser” means an enclosed laser with an assigned class number higher than the inherent capability of the laser system in which it is incorporated, where the system’s lower classification is due to engineering features that limit accessible emission.

“Enclosed laser” means a laser that is contained within its own protective housing or the protective housing of a laser or laser system in which it is incorporated. Opening or removing the protective housing provides more access to laser radiation above the applicable MPE than is possible with the protective housing in place. (An embedded laser is a type of enclosed laser.)

“Federal performance standards for light-emitting products” means the regulations in 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives, and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

“Human access” means the capacity to intercept laser or collateral radiation by any part of the human body.

“Incident” means an event or occurrence that results in actual or suspected accidental exposure to laser radiation that has caused or is likely to cause biological damage.

“Integrated radiance” means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian.

“Irradiance” means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

“Laser” See the definition in Article 1.

“Laser energy source” means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources, such as electrical supply

mains or batteries, are not considered laser energy sources by the Agency.

“Laser facility” means a facility where one or more lasers are used. For purposes of this definition a Class 1 facility is a facility that has one or more Class 1 lasers; a Class 2 facility is a facility that has one or more Class 2 or 2a lasers; a Class 3 facility is a facility that has one or more Class 3, 3a, or 3b lasers, and a Class 4 facility is a facility that has one or more Class 4 lasers. Facilities that contain more than one laser class are classified according to the highest laser class in use at the facility.

“Laser product” means any manufactured product or assemblage of components that constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is itself considered a laser product.

“Laser protective device” means any device used to reduce or prevent exposure of personnel to laser radiation. This includes: protective eyewear, garments, engineering controls, and operational controls.

“Laser radiation” means all electromagnetic radiation emitted by a laser product, within the spectral range specified in the definition of “laser,” which is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance.

“Laser Safety Officer (LSO)” - means any individual, qualified by training and experience in the evaluation and control of laser hazards, who is designated by the registrant and has the authority and responsibility to establish and administer the laser radiation protection program for a particular class of facility.

“Laser system” means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

“Limited exposure duration ( $T_{\max}$ )” means an exposure duration that is specifically limited by design or intended use.

“Maintenance” means performance of those adjustments or procedures specified in operator information provided by the manufacturer with the laser product, which are to be performed by the operator to ensure the intended performance of the product. The term does not include operation or service as defined in this Section.

“Maximum permissible exposure (MPE)” means the level of laser radiation to which a person may be exposed without hazardous effect or adverse biological changes in the eye or skin. MPE values for eye and skin exposure are listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

“Medical laser product” means any laser product that is a medical device defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of: diagnosis, surgery, therapy, or relative positioning of the human body.

“Operation” means the performance of the laser product over the full range of its function. It does not include maintenance or service as defined in this Section.

“Protective housing” means those portions of a laser product that are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this Article.

“Pulse duration” means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

“Pulse interval” means the period of time between identical points on two successive pulses.

“Radiance” means the time-averaged radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian.

“Radiant energy” means energy emitted, transferred, or received in the form of radiation, expressed in joules.

“Radiant exposure” means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter.

“Radiant power” means the time-averaged power emitted, transferred, or received in the form of radiation, expressed in watts.

“Rule of nines” means a method for estimating the extent of burns, expressed as a percentage of total body surface. In this method the body is divided into sections of 9 percent or multiples of 9 percent, each: head and neck, 9 percent; anterior trunk, 18 percent; posterior trunk, 18 percent; upper limbs, 18 percent; lower limbs, 36 percent; and genitalia and perineum, 1 percent.

“Safety interlock” means a device associated with the protective housing of a laser product to prevent human access to excessive radiation.

“Sampling interval” means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol “t”.

“Secured enclosure” means an area to which casual access is impeded by various means, such as a door secured by a lock, latch, or screws.

“Service” means the performance of those procedures or adjustments described in the manufacturer’s service instructions that may affect any aspect of the product’s performance. The term does not include maintenance or operation as defined in this Section.

“ $T_{\max}$ ” See limited exposure duration.

“Uncertified laser product” means any laser that has not been certified in accordance with the requirements of 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Radio frequency and microwave radiation definitions:

“Accessible emission level” means the level of radio frequency radiation emitted from any source, expressed in terms of power density in milliwatts per square centimeter or electric and magnetic field strength, as applicable, and to which human access is normally possible.

“Far field region” means the area in which locally uniform distribution of electric and magnetic field strengths exists in planes transverse to the direction of propagation. The far field region is presumed to exist at distances greater than  $2D^2/\lambda$  from the antenna, where  $\lambda$  is the wavelength and  $D$  is the largest antenna aperture dimension.

“Maximum permissible exposure MPE” means the rms and peak electric and magnetic field strengths, their squares, or the plane-wave equivalent power densities associated with these fields and the induced and contact currents to which a person may be exposed without harmful effect and with an acceptable safety factor.

“Near field region” means the area near an antenna in which the electric and magnetic field components vary considerably

in strength from point to point. For most antennas the outer boundary of the region is presumed to exist at a distance  $\lambda/2\pi$  from the antenna surface, where  $\lambda$  is the wavelength.

“Radio frequency controlled area” means any location to which access is controlled for the purpose of protection from radio frequency radiation.

“Radio frequency source” means a source or system that produces electromagnetic radiation in the radio frequency spectrum.

“Radio frequency radiation” means electromagnetic radiation (including microwave radiation) with frequencies in the range of 0.3 megahertz to 100 gigahertz.

“Root-mean-square (rms)” means the effective value, or the value associated with joule heating, of a periodic electromagnetic wave. The rms is obtained by taking the square root of the mean of the squared value of a function.

“Safety device” means any mechanism incorporated into a radio frequency source that is designed to prevent human access to excessive levels of radio frequency radiation.

Ultraviolet, high intensity light, and intense pulsed light source definitions:

“EPA” means the United States Environmental Protection Agency.

“FDA” means the United States Food and Drug Administration.

“High intensity mercury vapor discharge (HID) lamp” means any lamp, including a mercury vapor or metal halide lamp that incorporates a high-pressure arc discharge tube with a fill that consists primarily of mercury and is contained within an outer envelope, except the tungsten filament self-ballasted mercury vapor lamp.

“Intense pulsed light device (IPL)” means, for purposes of R12-1-1438, any lamp-based device that produces an incoherent, filtered, and intense light.

“Maximum exposure time” means the greatest continuous exposure time interval recommended by the manufacturer of a product.

“Protective sunlamp eyewear” means any device designed to be worn by a user of a product to reduce exposure of the eyes to radiation emitted by the product.

“Sanitize” means treat the surfaces of equipment and devices using an EPA or FDA registered product that provides a specified concentration of chemicals, for a specified period of time, to reduce the bacterial count, including pathogens, to a safe level.

“Self-extinguishing lamp” means any HID lamp that ceases operation in conformance with the requirements of the performance standard in 21 CFR 1040.30(d), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any light source that produces ultraviolet radiation and that is intended for use in any sunlamp product.

“Ultraviolet radiation” means electromagnetic radiation in the wavelength interval from 200 to 400 nanometers in air.

“User” means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (05-1).

#### R12-1-1403. General Safety Provisions and Exemptions

- A. Based on consideration of the following factors, the Agency may waive compliance with specific requirements of this Article:
  1. Whether compliance requires product replacement or substantial modification of a product's current installation, and
  2. Whether the registrant provided information requested by the Agency to determine if there are alternative methods of achieving the same or a greater level of radiation protection.
- B. The registrant shall:
  1. Ensure that any nonionizing source is operated by an individual who is trained and has demonstrated competence in the safe use of the source.
  2. Provide safety rules to each individual who operates a nonionizing radiation source and determine whether the individual is aware of operating restrictions and procedures associated with the safe use of the source.
  3. Make, or cause to be made, any physical radiation surveys required by this Article.
  4. Maintain the following records for three years for Agency review:
    - a. Results of any physical survey or calibration required by this Article;
    - b. Radiation source inventories;
    - c. Maintenance, service, and modification records; and
    - d. Incident reports of known or suspected exposure to nonionizing radiation that exceeds any MPE specified in this Article.
- C. A registrant shall not operate a nonionizing radiation source unless the source complies with all of the applicable requirements of this Article.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1404. Radio Frequency Equipment

- A. A registrant shall operate a radiation source that emits radio frequency radiation in a radio frequency controlled area, in a manner that will prevent human exposure that exceeds the MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Agency. This incorporation by reference contains no future editions or amendments. The registrant shall post each point of access into a radio frequency controlled area according to R12-1-1406.

- B. If a registrant is required to operate a radio frequency source in a controlled area, the registrant shall employ visual or audible emission indicators that function only during production of radiation.
- C. If a source of radio frequency emissions is physically separate from the source's means of activation by a distance greater than 2 meters, the registrant shall place a visual or an audible emission indicator at the source and the point of activation.
- D. A registrant shall place each visual emission indicator so that the location of the indicator does not require human exposure to radio frequency radiation that exceeds the applicable MPE.
- E. A registrant shall inspect each safety device designed to prevent human exposure to excessive radio frequency radiation for proper operation at intervals that do not exceed one month.
- F. If a machine emits mechanically scanned radio frequency radiation, a registrant shall ensure that the machine cannot, as the result of scan failure or any other malfunction, cause a change in angular velocity or amplitude, allowing human exposure that exceeds the applicable MPE.
- G. A registrant shall physically secure each radio frequency sources to prevent unauthorized use and tampering.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1405. Radio Frequency Radiation: Maximum Permissible Exposure**

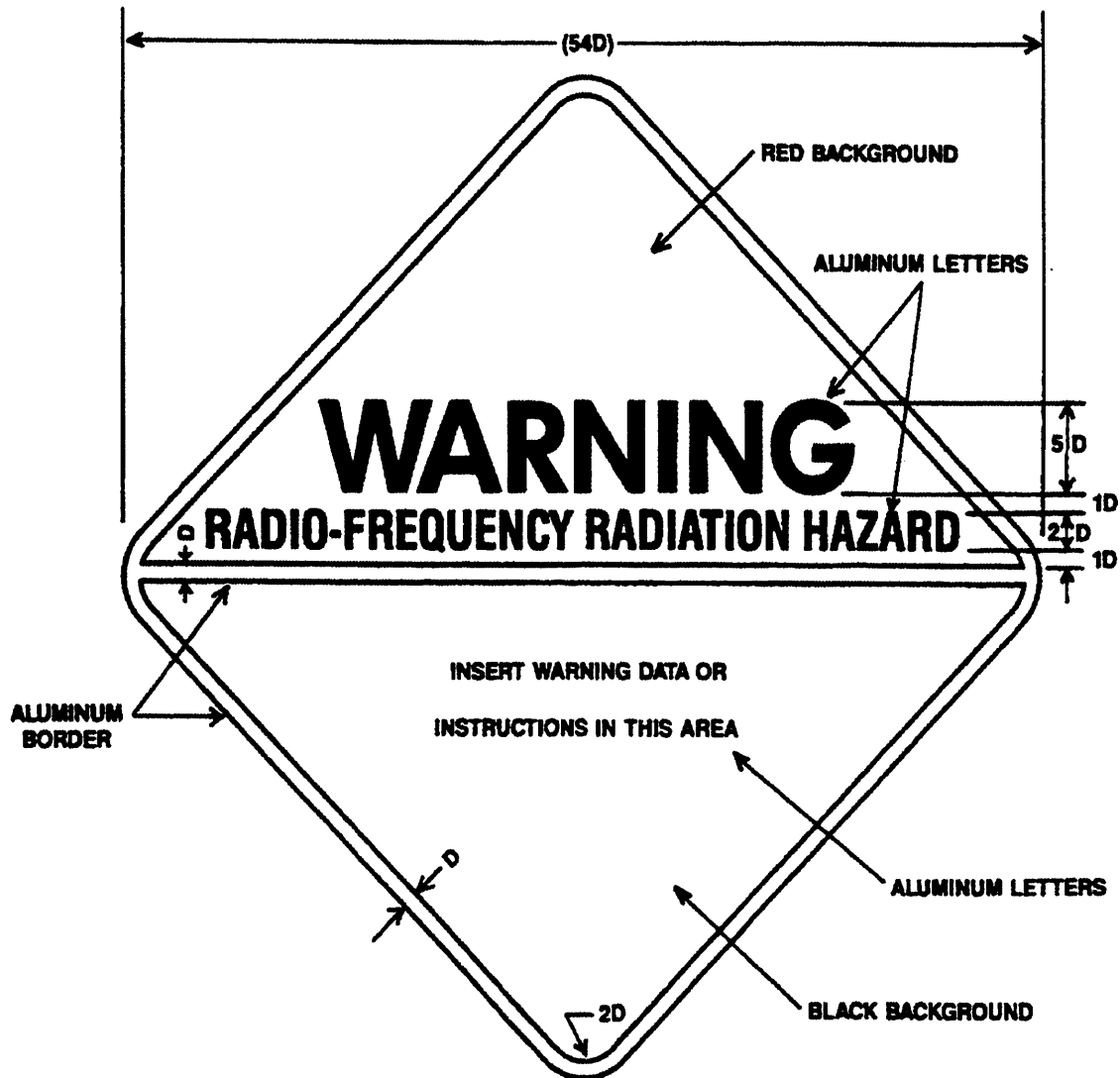
- A. A registrant shall not expose a person to radio frequency radiation that exceeds the applicable MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. At frequencies between 300 kHz and 100 GHz a registrant may exceed the applicable MPE if exposure conditions can be shown by laboratory procedures to produce specific absorption rates (SARs) above 0.4 watts per kilogram, averaged over the whole body, and spatial peak SAR values above 8 watts per kilogram, averaged over 1 gram of tissue.
- C. At frequencies between 300 kHz and 1 GHz, a registrant may exceed the applicable MPE, if the radio frequency input power to the radiating device is seven watts or less.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting**

- A.** A registrant shall post each point of access to a controlled area with caution signs of the type designated in Figure 1.



1. Place handling and mounting instructions on reverse side.
2. D = Scaling unit
3. Lettering: Ratio of letter height to thickness of letter lines.
  - Upper triangle: 5 to 1 Large  
6 to 1 Medium
  - Lower triangle: 4 to 1 Large  
6 to 1 Medium
4. Symbol is square, triangles are right-angle isosceles.

**Fig. 1**

- B.** A registrant shall post operating procedure restrictions or limitations, used to prevent unnecessary or excessive exposure to radio frequency radiation, in a location visible to the operator.
- C.** A registrant shall place each warning sign or label so that an observer is not exposed to radio frequency radiation that exceeds the applicable MPE.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1407. Microwave Ovens**

A person shall register with the Agency any microwave oven that does not meet the requirements in 21 CFR 1030.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1408. Reporting of Radio Frequency Radiation Incidents**

- A. A registrant shall report in writing to the Agency within 15 days of a known or suspected personnel exposure to radiation that exceeds the applicable MPE incorporated by reference in R12-1-1405.
- B. A registrant shall report to the Agency within 24 hours of a known or suspected personnel exposure to radiation that exceeds 150% of an applicable MPE incorporated by reference in R12-1-1405.
- C. A registrant shall immediately report to the Agency a known or suspected personnel exposure to radiation that exceeds 500% of an applicable MPE incorporated by reference in R12-1-1405.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation**

- A. Upon request by the Agency, a registrant shall provide a medical examination to an individual exposed to radiation reported to the Agency according to R12-1-1408.
- B. A registrant shall provide a copy of the results to the Agency if an individual undergoes a medical examination, requested under subsection (A).

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1410. Radio Frequency Compliance Measurements**

- A. For obtaining measurements to determine compliance with R12-1-1405, the Agency shall use an instrument capable of measuring the field strength and frequency of radiation.
- B. The Agency shall ensure that each instrument used for compliance measurements is calibrated every 12 months. The calibration shall be performed in a manner that meets the standards in IEEE Std C95.1-1999, incorporated by reference in R12-1-1404(A).
- C. For compliance measurements of exposure conditions in the near field, the Agency shall obtain measurements of both the electric and magnetic field components. The applicable protection standards for near field measurements are the mean squared electric and magnetic field strengths (using the applicable MPE) referenced in R12-1-1405.
- D. If the Agency is obtaining measurements to determine compliance in far field exposure conditions, the Agency may use measurements of power density in milliwatts per square centimeter or the calculated equivalent plane wave power density,

based on measurement of either the electric or magnetic field strength. The applicable protection standards are the power density values (using the applicable MPE) referenced in R12-1-1405.

- E. In obtaining measurements in accordance with this Section, the Agency shall measure the electric and magnetic field strength:
  - 1. Obtained at an emission frequency of 300 megahertz or less; and
  - 2. Expressed in terms of power density.
- F. For mixed or broadband fields at frequencies for which there are different protection standards, the Agency shall determine the fraction of the applicable MPE incurred within each frequency interval. To achieve compliance the sum of all the fractions shall not exceed unity (1).
- G. The Agency shall obtain compliance measurements at a distance of five centimeters or greater from any object.
- H. A registrant shall obtain measurements that are averaged over a six-minute period for pulsed and non-pulsed modes of radio frequency emission and make a correction for duty cycle in determining the average field strength.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1411. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1412. Tanning Operations**

A registrant shall establish and maintain written policies and procedures that are part of a radiation safety program to assure compliance with the requirements in R12-1-1412 through R12-1-1416.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1413. Tanning Equipment Standards**

- A. A registrant operating a tanning facility shall use sunlamp products that are certified by the manufacturer to comply with 21 CFR 1040.20, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments. For sunlamp products in use before the effective date of this Article, the Agency shall determine compliance based on the standard in effect at the time of manufacture, as shown on the equipment identification label.
- B. A registrant shall replace burned-out or defective lamps or filters, before any use of a tanning device.
- C. A registrant shall replace a burned-out or defective lamp or filter with a lamp or filter intended for use in that equipment, as specified on the sunlamp product label, or that is equivalent to a lamp or filter specified on the sunlamp product label under the FDA regulations and policies applicable to the sunlamp product at the time of manufacture. If an equivalent lamp or filter is used instead of the Original Equipment Manufacturer (OEM) lamp or filter specified on the product label, the regis-



trant shall maintain a copy of the equivalency certification, provided by the lamp supplier, on file for review by Agency inspectors.

- D.** A registrant shall ensure that each sunlamp product has a timer and control system that complies with 21 CFR 1040.20(c), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments. In addition the registrant shall ensure that:
1. The timer interval does not exceed the manufacturer's maximum, recommended exposure time;
  2. The timer is functional and accurate to within +/- 10% of the maximum timer interval of the product;
  3. The timer does not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle;
  4. The timer is tested annually for accuracy;
  5. For a new facility (including existing facilities with change of ownership) a remote timer control system is installed before operation of sunlamp products. For an existing facility that has sunlamp products not equipped with a remote timer control system, a remote timer control system (outside of the sunlamp product room) is installed no later than 6 months after the effective date of this Section; and
  6. Each sunlamp product is equipped with an emergency shutoff mechanism that allows manual termination of the UV exposure by the user.
- E.** A registrant shall provide physical barriers between each sunlamp product to protect users from injury caused by touching or breaking a lamp.
- F.** A registrant that employs a stand-up sunlamp product shall:
1. Use physical barriers, handrails, floor markings, or other methods to indicate the proper exposure distance between the ultraviolet lamps and the user's skin;
  2. Construct each tanning booth so that it can withstand the stress of use and the impact of a falling person;
  3. Provide access to a tanning booth with doors of rigid construction that open outward, handrails, and non-slip floors; and
  4. Control the interior temperature of a sunlamp product so that it never exceeds 100 degrees Fahrenheit (38 degrees Centigrade).

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1414. Tanning Equipment Operators

- A.** A registrant shall ensure that at least one operator is present during operating hours. The operator shall:
1. Limit the occupancy of the tanning room to one person when the tanning equipment is in use;
  2. Prevent use of the tanning equipment by anyone under 18 years of age unless the person has written permission from a parent or guardian;
  3. Limit exposure time to the manufacturer's recommendation on the equipment label or in the operator's manual;
  4. Limit exposure time during a 24-hour period to the maximum recommended for a 24-hour period by the manufacturer; and
  5. Maintain a record of each user's total number of tanning visits and exposure times for Agency inspection. The reg-

istrant shall maintain the records for three years from the date on the record.

- B.** Before use of tanning equipment, an operator shall:
1. Provide the user sanitized protective sunlamp eyewear and directions for its use;
  2. Demonstrate the use of any physical aids, necessary to maintain correct exposure distance for the user, as recommended by the manufacturer of the tanning equipment;
  3. Set the exposure timer so that the user is not exposed to excess radiation;
  4. Instruct the user on the maximum exposure time and correct distance from the radiation source as recommended by the manufacturer of the tanning equipment; and
  5. Instruct the user about the location and correct operation of the emergency shutoff switch.
- C.** An operator shall control a sunlamp's timer. A registrant shall:
1. Provide training to operators that covers:
    - a. The requirements of this Section;
    - b. Facility operating procedures, including:
      - i. Determination of skin type and associated duration of exposure;
      - ii. Procedures for use of minor and adult user consent forms;
      - iii. Potential harm associated with photosensitizing foods, cosmetics, and medications;
      - iv. Requirements for use of protective eyewear by users of the equipment; and
      - v. Proper sanitizing procedures for the facility, equipment, and eyewear;
    - c. The manufacturer's procedures for operation and maintenance of tanning equipment;
    - d. Recognition of injury or overexposure; and
    - e. Emergency procedures used in the case of an injury.
  2. Maintain records of training for Agency review, which include dates and material covered, for three years from the date the training is provided.
  3. Post a list of operators at the facility.
- D.** Before the first use of a tanning facility in each calendar year by a user:
1. An operator shall request that the user read a copy of the warnings in R12-1-1415(A);
  2. The operator shall obtain the user's signature on a statement as an acknowledgment that the user has heard or read and understands the warnings in R12-1-1415(A); and
  3. For illiterate or visually handicapped persons, the operator shall read the warnings in R12-1-1415(A) in the presence of a witness. Both the witness and the operator shall sign the statement described in subsection (D)(2).

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1415. Tanning Facility Warning Signs

- A.** A registrant shall post the warning sign shown in this subsection within 1 meter (39.37 inches) of each tanning device, ensuring that the sign is clearly visible and easily viewed by the user before the tanning device is operated.
- B.** A registrant shall post a warning sign, which contains the statement shown, at or near the reception area.
- PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE PARENT OR LEGAL GUARDIAN SIGN AN AUTHORIZATION TO TAN IN THE PRESENCE OF A TANNING FACILITY OPERATOR**

- C. The lettering on each warning sign shall be at least 10 millimeters high for all words shown in capital letters and at least 5 millimeters high for all lower case letters.

\*\*\*\*\*

**DANGER - ULTRAVIOLET RADIATION**

1. Follow instructions.
2. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin, dryness, wrinkling, and skin cancer.
3. Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.**

4. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe you are especially sensitive to sunlight.
5. If you do not tan in the sun, you are unlikely to tan from use of this device.

\*\*\*\*\*

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1416. Reporting of Tanning Injuries

- A. A registrant shall report any incident involving an eye injury; skin burn; fall injury, if the fall occurs within the tanning device or while entering or exiting the device; laceration; infection believed to have been transmitted by use of the tanning device; or any other injury reasonably related to the use of the tanning device.
- B. A registrant shall provide a written report of an incident to the Agency within 10 working days of its occurrence or within 10 working days of the date the registrant became aware of the incident.
- C. The report shall include:
  1. The name of the user;
  2. The name and location of the tanning facility;
  3. A description of and the circumstances associated with the injury;
  4. The name and address of the health care provider treating the user, if any; and
  5. Any other information the registrant considers relevant to the incident.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1417. Repealed

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section repealed by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1418. High Intensity Mercury Vapor Discharge (HID) Lamps

A person shall register with the Agency any HID lamp that does not meet the requirements in 21 CFR 1040.30, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1419. Reserved

#### R12-1-1420. Reserved

#### R12-1-1421. Laser Safety

- A. The requirements contained in this Section apply to laser products that are used in accordance with the manufacturer's classification and instructions. If certain engineering controls are impractical during manufacture or research and development activities, the LSO shall specify alternate requirements to obtain equivalent laser safety protection.
- B. A registrant shall establish and maintain a laser radiation safety program.
- C. If R12-1-1433 is applicable, a registrant shall conduct a laser radiation protection survey to ensure compliance with R12-1-1433 before initial use, following system modifications, and at intervals that do not exceed six months. During a survey the registrant shall:
  1. Determine whether each laser protective device is labeled correctly, functioning within the design specifications, and meets required standards for the type and class of laser in use;
  2. Determine whether each warning device is functioning within design specifications;
  3. Determine whether each controlled area is identified, controlled, and posted with accurate warning signs in accordance with this Article;
  4. Reevaluate potential hazards from surfaces that are associated with Class 3 and Class 4 beam paths; and
  5. Evaluate the laser and collateral radiation hazard incident to the use of lasers.
- D. The registrant shall maintain records of:
  1. Results of all physical surveys made to determine compliance with this Article;
  2. Any restriction in operating procedures necessary to prevent unnecessary or excessive exposure to laser or collateral radiation;
  3. Any incident for which reporting to the Agency is required pursuant to R12-1-1436;
  4. Results of medical surveillance to determine extent of injury resulting from exposure to laser or collateral radiation;
  5. Inventory to account for all sources of radiation possessed by the licensee.

- E. A registrant shall provide the Laser Safety Officer with training that covers the subjects listed in Appendix D.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-2). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1).

#### R12-1-1422. Laser Protective Devices

- A. A registrant shall ensure that each laser product has a protective housing that prevents access to laser and collateral radiation if it exceeds the exposure limits for Class 1 lasers in R12-1-1426. If a laser's accessible emission levels must exceed the limits for Class 1 lasers, the registrant shall use a laser from the lowest class that will enable the registrant to perform the intended function.
- B. To prevent access to radiation above the applicable MPE, a registrant shall ensure that each laser has a safety interlock, which prevents operation of the laser if a person has removed any portion of the protective housing that can be removed or displaced without the use of tools during normal operation or maintenance. The registrant shall ensure that:
1. Service, testing, or maintenance of a laser does not render the interlocks inoperative or increase radiation outside the protective housing to levels that exceed the applicable MPE, unless a controlled area is established as specified in R12-1-1433;
  2. For pulsed lasers, interlocks are designed to prevent the laser from firing;
  3. For Class 3b and 4 continuous wave (cw) lasers, interlocks turn off the power supply or interrupt the beam.
  4. An interlock does not allow automatic accessibility to radiation emission above the applicable MPE when the interlock is closed; and
  5. Multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing is provided if failure of a single interlock could result in:
    - a. Human access to levels of laser radiation that exceed the radiant power accessible emission limit for Class 3a laser radiation, or
    - b. Laser radiation that exceeds the accessible emission limit for Class 2, emitted directly through the opening created by removal or displacement of a portion of the protective housing.
- C. A registrant shall ensure that a laser with viewing ports, viewing optics, or display screens, included as an integral part of the enclosed laser or laser system has:
1. A suitable means to attenuate laser and collateral radiation transmitted through the optical system to less than the accessible emission limit for collateral radiation required by 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments; and
  2. Specific written administrative procedures developed by the LSO, and use controls, such as interlocks or filters, if there is increased hazard to the eye or skin associated with the use of optical systems such as lenses, telescopes, or microscopes.
- D. A registrant shall ensure that each Class 3 or 4 laser product provides a visual or audible indication before the emission of

accessible laser radiation that exceeds the limits for Class 1, as follows:

1. For Class 3, except for laser products that allow access to less than 5 milliwatts peak visible laser radiation, and Class 4 lasers, the indication occurs before the emission of the radiation and allows enough time for action to avoid exposure;
2. Any visual indicator is clearly visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation;
3. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both the laser and laser energy source incorporate visual or audible indicators; and
4. Any visual indicators are positioned so that viewing does not require human access to laser radiation that exceeds the applicable MPE.

- E. In addition to the information signs, symbols, and labels prescribed in R12-1-1427, R12-1-1428, and R12-1-1429, each registrant shall provide, near the signs, symbols, and labels within the laser facility, operating procedure restrictions and any other safety information required to ensure compliance with this Article and minimize exposure to laser and collateral radiation.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Table referenced in subsection (A) was repealed effective January 2, 1996; Section amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1423. Laser Prohibitions

- A. A registrant shall not require or permit an individual to look directly into a laser beam or directly at specular reflections of a laser beam, or align a laser by eye while looking along the axis of the laser beam if the intensity of the beam or the beam's reflections exceeds the applicable MPE.
- B. A registrant shall not permit an individual to enter a controlled area if the skin exposure exceeds the applicable MPE, unless the registrant provides and requires the use of protective clothing, gloves, and shields.
- C. A registrant shall ensure that any laser product, emitting spatially scanned laser radiation, does not, as a result of scan failure or any other failure that causes a change in angular velocity or amplitude, permit human access to laser radiation that exceeds the accessible emission limits applicable to that class of product.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1424. Repealed

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1).

#### R12-1-1425. Laser Product Classification

- A. Each laser product is classified on the basis of emission level, emission duration, and wavelength of accessible laser radiation emitted over the full range of resulting operational capability, any time during the useful life of the product, according to the federal performance standards for light-emitting products contained in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration,

Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

- B. Any person that modifies a certified laser product in a manner that affects any aspect of performance or intended functions of the product, shall recertify and reidentify the product in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C. Any laser system that is incorporated into a laser product that is subject to the requirements of this Article, and capable, without modification, of producing laser radiation when removed from the laser product, is considered a laser product, subject to the applicable requirements of this Article. Upon removal of the laser system described in this subsection, the laser product is classified on the basis of accessible laser radiation emission.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1426. Laser and Collateral Radiation Exposure Limits

- A. A registrant shall not use, or permit the use of a laser product that will result in a human exposure that exceeds the applicable MPE or accessible emission limit (AEL) listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Agency. Accessible emission limits are listed in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. These incorporations by reference contain no future editions or amendments.
- B. A registrant shall not allow exposure to collateral radiation that exceeds any accessible emission limit in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1427. Laser Caution Signs, Symbols, and Labels

- A. Except as otherwise authorized by the Agency, a registrant shall use signs, symbols, and labels prescribed by this Section and the design and colors specified in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- B. A registrant shall ensure that the word “invisible” immediately precedes the word “radiation” on labels and signs required by this Section for lasers that only produce wavelengths of laser and collateral radiation that are outside of the range of 400 to 710 nanometers.

- C. A registrant shall ensure that the words “visible and invisible” immediately precede the word “radiation” on labels and signs required by this Section for lasers that produce wavelengths of laser and collateral radiation that are both within and outside the range of 400 to 710 nanometers.
- D. A registrant shall position any label placed on lasers or signs posted in laser facilities so that the reader of the label or sign is not exposed to laser or collateral radiation that exceeds the applicable MPE or accessible emission limit while reading the label or sign.
- E. A registrant shall use labels and signs that are clearly visible, legible, and permanently attached to the laser or facility.
- F. A registrant shall ensure that a permanent and legible label is affixed to each laser, identifying the classification of the laser in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- G. For a Class 3 or Class 4 laser a registrant shall ensure that a permanent and legible label is affixed to each laser, specifying the maximum output of laser radiation, the pulse duration if applicable, and the laser medium or emitted wavelength.
- H. For a Class 3 or Class 4 laser, used in the practice of medicine, a registrant shall ensure that a permanent and legible label is affixed to each laser providing one or more of the following warnings near each aperture that emits laser radiation or collateral radiation that exceeds the applicable MPE, as follows:
  1. “AVOID EXPOSURE - Laser radiation is emitted from this aperture” if the radiation emitted through the aperture is laser radiation;
  2. “AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture” if the radiation emitted through the aperture is collateral radiation; or
  3. “AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture” if the radiation emitted through the aperture is collateral x-ray radiation.
- I. A registrant shall ensure that there is a label on each non-interlocked or defeatable interlocked portion of the protective housing or enclosure that permits human access to laser or collateral radiation. The label shall include one or more of the following warnings, as applicable:
  1. For laser radiation that exceeds the applicable accessible emission limit for a Class 1 or Class 2 laser, but does not exceed the applicable accessible emission limit for a Class 3 laser, the warning: “DANGER - Laser radiation when open, AVOID DIRECT EXPOSURE TO THE BEAM.”
  2. For laser radiation that exceeds the applicable accessible emission limit for a Class 3 laser, the warning: “DANGER - Laser radiation when open, AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION.”
  3. For collateral radiation that exceeds an applicable accessible emission limit:
    - a. If the applicable limit for collateral laser radiation is exceeded, the warning: “CAUTION - Hazardous electromagnetic radiation when open”; and
    - b. If the applicable limit for collateral x-ray radiation is exceeded, the warning: “CAUTION - Hazardous x-ray radiation”.
  4. For a protective housing or an enclosure that has a defeatable interlock, the warning “and interlock defeated” in addition to the warnings in subsections (1) through (3).

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1428. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1).

**R12-1-1429. Posting of Laser Facilities**

Unless other methods are approved by the Agency, a registrant shall post each laser facility in accordance with ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1430. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1).

**R12-1-1431. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1).

**R12-1-1432. Repealed****Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1).

**R12-1-1433. Laser Use Areas that are Controlled**

- A.** A registrant shall establish a controlled area for a laser if it is possible for a person to be exposed to laser radiation from a Class 3b laser, except a Class 3b laser of less than 5 milliwatts visible peak power, or a Class 4 laser that exceeds the applicable MPE or AEL in R12-1-1426.
- B.** A registrant shall ensure that a controlled area associated with a Class 3b laser is:
  - 1. The responsibility of a LSO;
  - 2. Posted in accordance with this Article; and
  - 3. Access controlled by the LSO or a trained, designated representative.
- C.** A registrant shall ensure that a controlled area associated with a Class 4 laser is:
  - 1. The responsibility of a LSO;
  - 2. Posted in accordance with this Article;
  - 3. Access controlled by the LSO or a trained, designated representative; and
  - 4. If an indoor controlled area:
    - a. Equipped with latches, interlocks, or another means of preventing unexpected entry into the controlled area;
    - b. Equipped with a control-disconnect switch, panic button, or an equivalent device for deactivating the laser during an emergency;
    - c. Operated so that the person in charge of the controlled area can momentarily override the safety

interlocks during tests that require continuous operation to provide access to other personnel if there is no optical radiation hazard at the point of entry and the entering personnel are wearing required protective devices; and

- d. Controlled in a way that reduces the transmitted values of laser radiation through optical paths such as windows, to levels at or below the applicable ocular MPE and AEL in R12-1-1426. If a laser beam with an irradiance or radiant-exposure above the applicable MPE or AEL will exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the registrant and the operator are responsible for ensuring that the beam path is limited to controlled air space or controlled ground space.

- D.** If a panel or protective cover is removed or an interlock bypassed for service, testing, or maintenance, a registrant shall establish an accessible controlled area. The registrant, through a LSO or a designated representative, shall comply with laser safety requirements for all potentially-exposed individuals.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1434. Laser Safety Officer (LSO)**

- A.** Each registrant shall designate a Laser Safety Officer (LSO).
- B.** The LSO shall administer the laser radiation protection program and shall:
  - 1. Ensure that maintenance or service for Class 3b and Class 4 lasers is performed only by technicians trained to provide the maintenance or service by either the manufacturer's service organization or the registrant;
  - 2. Approve or reject written service, maintenance, and operating procedures;
  - 3. Investigate, document, and report all incidents as required by R12-1-1436;
  - 4. Select protective eyewear as required by R12-1-1435, along with any other protective equipment;
  - 5. For health care facilities, establish authorization and operating procedures, including preoperative and postoperative checklists, for use by operating room personnel;
  - 6. Ensure that authorized personnel are trained in the assessment and control of laser hazards;
  - 7. Select signs, symbols, and labels as required by R12-1-1427;
  - 8. Perform laser radiation protection surveys as required by R12-1-1421 and R12-1-1441;
  - 9. Classify or verify the classification of lasers and laser systems used under the LSO's jurisdiction;
  - 10. Evaluate the hazard of laser use areas, treatment areas, and controlled areas, as required by R12-1-1421(C).

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1435. Laser Protective Eyewear**

- A.** A registrant shall require that protective eyewear, as specified by the LSO, be worn by an individual who has access to:
  - 1. Class 4 laser radiation; or
  - 2. Class 3b laser radiation.
- B.** A registrant shall, through the LSO, provide protective eyewear that is:

1. Marked with a label that indicates the optical density protection afforded for the relevant laser wavelength;
  2. Maintained so that the protective properties of the eyewear are preserved;
  3. Inspected at intervals that do not exceed six months to ensure integrity of the protective properties; and
  4. Removed from service if the protective properties of the eyewear fall below the optical density on the label.
- C. A registrant shall maintain records of protective eyewear maintenance, inspection, and removal from service for five years.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1436. Reporting Laser Incidents

- A. A registrant shall notify the Agency by telephone within 24 hours of any incident that has caused or may have caused:
1. Permanent loss of sight in either eye; or
  2. Third-degree burns of the skin involving more than 5 percent of the body surface as estimated by the rule of nines.
- B. A registrant shall notify the Agency by telephone within five working days of any incident that has or may have caused:
1. Any second-degree burn of the skin larger than one inch (2.54 centimeter) in greatest diameter; or
  2. Any third-degree burn of the skin; or
  3. An eye injury with any potential loss of sight.
- C. Each registrant shall file a written report with the Agency of any known exposure of an individual to laser radiation or collateral radiation within 30 days of its discovery, describing:
1. Each exposure of the individual to laser or collateral radiation that exceeds the applicable MPE; and
  2. Any incident that triggered a notice requirement in subsections (A) or (B).
- D. Each report required by subsection (C) shall describe the extent of exposure to each individual including:
1. An estimate of the individual's exposure;
  2. The level of laser or collateral radiation involved;
  3. The cause of the exposure; and
  4. The corrective steps taken or planned to prevent a recurrence.
- E. A registrant shall not operate or permit the operation of any laser product or system that does not meet the applicable requirements in this Article.

*Editor's Note: The tables referenced in subsection (A) were repealed effective January 2, 1996.*

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1); the tables previously referenced in subsection (A) were repealed effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1437. Special Lasers

A registrant operating a laser system with an unenclosed beam path shall:

1. Conduct an evaluation before operating the laser to determine the expected beam path and the potential hazards from reflective surfaces. Based on the evaluation the registrant shall exclude reflective surfaces from the beam path at all points where the laser radiation exceeds an applicable MPE;

2. Evaluate the stability of the laser platform to determine the constraints placed upon the beam traverse and the extent of the range of control; and
3. Refrain from operating or making a laser ready for operation until the area along all points of the beam path, where the laser radiation will exceed the applicable MPE, is clear of individuals, unless the individuals are wearing the correct protective devices.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### R12-1-1438. Hair Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

- A. Registration. A person who seeks to perform hair reduction or other cosmetic procedures shall apply for registration of any medical laser or IPL device that is a Class II surgical device, certified as complying with the labeling standards in 21 CFR 801.109, revised April 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. The applicant shall provide all of the following information to the Agency with the application for registration:
1. Documentation demonstrating that the health professional is qualified in accordance with A.R.S. § 32-516 or 32-3233, has 24 hours of didactic training on the subjects listed in Appendix C, and has passed an Agency-approved exam on subjects covered with a minimum grade of 80%;
  2. For any health professional in practice prior to October 1, 2010, proof of 24 hours of training on the subjects listed in Appendix C;
  3. Documentation endorsed by the prescribing health professional, acknowledging responsibility for the minimum level of supervision required for hair reduction procedures as defined in R12-1-1402 under "indirect supervision";
  4. Procedures to ensure that the registrant has a written order from a prescribing health professional before the application of radiation;
  5. If authorized, procedures to ensure that, in the absence of a prescribing health professional at the facility, the registrant has established a method for emergency medical care and assumed legal liability for the service rendered by an indirectly-supervised certified laser technician; and
  6. Documentation that the indirectly-supervised certified laser technician has participated in the supervised training required by A.R.S. § 32-516 or 32-3233.
- B. Hair Reduction Procedures
1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for hair reduction procedures, the registrant shall:
    - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is working under the indirect supervision of a health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1), and
    - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for hair reduction procedures.
  2. A registrant shall:

- a. Not permit an individual to use a medical laser or IPL device for hair reduction procedures unless the individual:
    - i. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program, the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
    - ii. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (B)(2)(a)(i);
    - iii. Performs or assists in at least 10 hair reduction procedures; and
    - iv. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (B)(2)(a).
  - b. Ensure that the laser technician follows written procedure protocols established by a prescribing health professional; and
  - c. Ensure that the laser technician follows any written order, issued by a prescribing health professional, which describes the specific site of hair reduction.
  3. A registrant shall maintain a record of each hair reduction procedure protocol that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually.
  4. A registrant shall:
    - a. Maintain each procedure protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
    - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a hair reduction procedure.
  5. A registrant shall require that a prescribing health professional observe the performance of each laser technician during procedures at intervals that do not exceed six months. The registrant shall maintain a record of the observation for three years from the date of the observation.
  6. A registrant shall verify that a health professional is qualified to perform hair reduction procedures by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.
  7. A registrant shall provide radiation safety training to all personnel involved with hair reduction procedures, designing each training program so that it matches an individual's involvement in hair reduction procedures. The registrant shall maintain records of the training program and make them available to the Agency for three years from the date of the program, during and after the individual's period of employment.
- C. Other Cosmetic Procedures**
1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for other cosmetic procedures, the registrant shall:
    - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is directly supervised by a health professional as described in A.R.S. §§ 32-516(C)(2) and 32-3233(D) and (H)(2); and
    - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for other cosmetic procedures.
  2. A registrant shall not permit an individual to use a medical laser or IPL device for other cosmetic procedures unless the individual:
    - a. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
    - b. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (C)(2)(a); and
    - c. Performs or assists in at least 10 cosmetic procedures governed by subsection (C), for each type of procedure (for example: spider vein reduction, skin rejuvenation, non-ablative skin resurfacing); and
    - d. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (C)(2).
  3. A registrant shall maintain a record of each protocol for a cosmetic procedure governed by subsection (C) that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually. The registrant shall:
    - a. Maintain each protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
    - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a cosmetic procedure governed by subsection (C).
  4. A registrant shall verify that a health professional is qualified to perform laser, IPL, and related procedures, by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.

5. A registrant shall provide radiation safety training to all personnel involved with cosmetic procedures governed by subsection (C), designing each training program so that it matches an individual's involvement in each procedure. The registrant shall maintain records of the training program and make them available to the Agency for three years from the date of the program, during and after the individual's period of employment.
- D. Persons governed by this Section shall also comply with other applicable licensing and safety laws.
- E. A laser shall be secured so that the laser cannot be removed from the facility and the on/off switch is turned to the "off" position with the key removed when a certified laser technician or a health professional is not present in the room where the laser is located.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1). New Section made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (05-1). Amended by final rulemaking at 16 A.A.R. 1703, effective August 10, 2010; Manifest typographical errors corrected at the request of the Agency, filed August 31, 2010, file no. M10-342 (Supp. 10-3).

#### R12-1-1438.01. Certification and Revocation of Laser Technician Certificate

- A. An applicant for a laser technician certificate shall submit a completed application and certification that the applicant has received the training specified in A.R.S. §§ 32-516(A) or 32-3233(E).
- B. The applicant shall pay a nonrefundable fee of \$30.00. A duplicate certificate may be requested at the time of initial application or renewal at a fee of \$10.00 per certificate. To obtain a duplicate certificate at other times a laser technician shall pay \$20.00 per certificate.
- C. Initial certificates are issued for 12 months and expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$30.00 each year in addition to \$10.00 per duplicate certificate requested.
- D. Under A.R.S. § 32-3233(I) and (J), the Agency may take appropriate disciplinary action, including revocation of the certificate of a certified laser technician. The Agency may discipline a certified laser technician who has had a relevant professional license suspended or revoked, or been otherwise disciplined by a health professional board or the Board of Cosmetology. The Agency may also discipline the certified laser technician for falsifying documentation related to training, prescriptions, or other required documentation. As provided in Article 12 of this Chapter, the Agency may assess civil penalties, suspend, revoke, deny, or put on probation a certified laser technician.
- E. A laser technician who has been using laser and IPL devices prior to November 24, 2009 may continue to do so if the technician applies for and receives a certificate from the Agency before October 1, 2010.
- F. Certification may be issued for one or more of the following procedures:
  1. Hair Reduction,
  2. Skin Rejuvenation,
  3. Non-Ablative Skin Resurfacing,
  4. Spider Vein Reduction,
  5. Skin Tightening,
  6. Wrinkle Reduction,
  7. Laser Peel,
  8. Telangiectasia Reduction,
  9. Acquired Adult Hemangioma Reduction,
  10. Facial Erythema Reduction,
  11. Solar Lentigo Reduction (Age Spots),
  12. Ephelis Reduction (Freckles),
  13. Acne Scar Reduction,
  14. Photo Facial, or
  15. Additional procedures as approved by the Agency after consultation with other health professional boards as defined in A.R.S. §§ 32-516(F)(3) or 32-3233(D)(1).
- G. For any application relating to the certification of laser technicians, as described in A.R.S. § 41-1072, there is an administrative completeness review time-frame of 30 days and a substantive review time-frame of 30 days with an overall time-frame of 60 days.
- H. Certified laser technicians shall display a valid original certificate as issued by the Agency in a location that is viewable by the public.

#### Historical Note

New Section made by final rulemaking at 16 A.A.R. 1703, effective August 10, 2010 (Supp. 10-3).

#### R12-1-1439. Laser and IPL Laser Technician and Laser Safety Training Programs

- A. A person seeking to initiate a medical laser or IPL laser technician training program shall submit an application to the Agency for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R12-1-1438 through this Section, and Appendix C.
- B. The Agency shall review the application and other documents required by subsections (A) and (E) in a timely manner, using an administrative completeness review time-frame of 40 days and a substantive review time-frame of 20 days with an overall time-frame of 60 days.
- C. The Agency shall maintain a list of certified laser or IPL training programs.
- D. Applicants for approval as a certified laser or IPL training program shall pay a nonrefundable \$100.00 fee.
- E. Initial certification shall be issued for 12 months and shall expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$100.00 each year.
- F. A person seeking to initiate a medical laser or IPL laser technician safety training program shall submit an application to the Agency for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R12-1-1421 through R12-1-1444, Appendix C, and Appendix D, with emphasis on personal and public safety. The program shall also contain the training required by A.R.S. § 32-3233(E) or clearly state the portions of the training that are not provided or met if didactic certification is to take place in another program. The applicant shall conduct training in accordance with the program submitted to the Agency and certified by the Agency.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1). Amended by final rulemaking at 16 A.A.R. 1703, effective August 10, 2010 (Supp. 10-3).



**R12-1-1440. Medical Lasers**

- A.** A registrant shall ensure that a Class 3 and Class 4 laser product used in the practice of medicine has a means for measuring the level of laser radiation with an error in measurement of no greater than +20%, when calibrated in accordance with the laser product manufacturer's calibration procedure.
- B.** A registrant shall calibrate a laser used in the practice of medicine according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.
- C.** In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a registrant shall form a Laser Safety Committee to govern laser activity, establish use criteria, and approve operating procedures, as follows:
  - 1. With regard to membership of the committee the registrant shall include at least one representative of the Nursing staff, the LSO, one management representative, and one representative of each medical discipline that uses the lasers;
  - 2. The committee shall review actions by the LSO related to hazard evaluation and the monitoring and control of laser hazards; and
  - 3. The committee shall approve or deny requests by potential operators and ancillary personnel to operate or assist in the operation of a laser under the direction of a licensed practitioner.
- D.** A registrant shall use Class 3b and Class 4 Lasers that have a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.
- E.** A registrant shall establish a written laser safety training program that provides a thorough understanding of established procedures for each type of laser in use and the medical procedures associated with use of the laser. The registrant shall make program documentation available for Agency review and, at minimum, address all of the following in the documentation:
  - 1. Regulatory requirements and the laser classification system;
  - 2. Fundamentals of laser operation and the significance of specular and diffuse reflections;
  - 3. Biological effects of laser radiation on the eye and skin;
  - 4. Non-beam hazards (for example: electrical, chemical, and reaction by-product hazards) and ionizing radiation hazards (for example: x-rays from power sources and target interactions, if applicable) of lasers; and
  - 5. Responsibilities of management and employees regarding control measures.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

**R12-1-1441. Laser Light Shows and Demonstrations**

- A.** Before a conducting laser light show or laser demonstration, a registrant shall provide documentation to the Agency that a variance from 21 CFR 1040.10 has been obtained from the FDA.
- B.** A registrant shall notify the Agency in writing, at least three working days in before a proposed laser light show or demonstration, and include all of the following information:
  - 1. The location, time, and date of the light show or demonstration;
  - 2. Sketches showing the locations of each laser, operator, performer, laser beam path, viewing screen, wall, mirror

- ball, or any other reflective or diffuse surface that could be hit by or reflect the laser beam;
- 3. Scanning beam patterns, scan velocity, and frequency in occupied areas; and
- 4. Physical surveys and calculations made to comply with this Article.
- C.** A registrant shall supply any additional information required by the Agency for the safety evaluation of the proposed activity.
- D.** Before an outdoor laser light show, a registrant shall notify the Federal Aviation Administration of the proposed show.
- E.** If a light show or demonstration involves laser radiation emissions outside the spectral range of 400 to 700 nanometers, a registrant shall prevent the emissions from exceeding the applicable Class 1 accessible emission limit.
- F.** If it is likely that an audience member or any operator, performer, or employee will view laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 1 accessible emission limit.
- G.** Even if it is unlikely that an individual, including any operator, performer, or employee in the vicinity of a laser light show or demonstration will view or be exposed to laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 2 accessible emission limit.
- H.** A registrant shall identify any area where levels of laser radiation exceed the applicable Class 2 accessible emission limit by posting warning signs and using barriers or guards to prevent entry.
- I.** If a registrant uses a scanning device, the registrant shall not use a device which, as a result of scan failure or any other failure, can change its angular velocity or amplitude, permitting audience exposure to laser radiation that exceeds the applicable Class 1 accessible emission limit.
- J.** If a mirror ball is used with a scanning laser, a registrant shall meet the requirements of subsections (F) and (G) when the mirror ball is stationary or during any failure mode that results in a change in the rotational speed of the mirror ball.
- K.** A registrant shall ensure that an operator is at all times directly and personally supervising a laser light show or demonstration, except in cases where the maximum laser power output level is less than 5 milliwatts (all spectral lines) and the laser beam path is located at all times at least 6 meters above any surface upon which an individual in the audience is permitted to stand, and at any point, more than 2.5 meters in lateral separation from any position where an individual in the audience is permitted during the performance.
- L.** A registrant shall prevent laser radiation levels from exceeding the applicable Class 2 accessible emission limit at any point less than three meters above any surface upon which an individual in the audience is permitted to stand and 2.5 meters in lateral separation from any position where an individual in the audience is permitted, unless physical barriers are present that prevent human access to the radiation.
- M.** A registrant shall limit the maximum power output of any laser to a level sufficient to produce the desired effect.
- N.** If a registrant is required to limit output power to a level less than the available power to meet the requirements of this Article, the registrant shall adjust, measure, and record the laser output power before the laser light show or demonstration.
- O.** A registrant shall functionally test and evaluate all safety devices and procedures necessary to comply with this Article after setup, and before a laser light show or demonstration.
- P.** A registrant shall secure a laser system, when not in use, against unauthorized operation or tampering
- Q.** A registrant shall perform laser alignment procedures with the laser output power reduced to the lowest practicable level, and

ensure that any operator, performer, or other employee wears protective eyewear as necessary to prevent exposure to radiation levels that exceed the applicable MPE. The registrant shall only allow individuals who are performing the alignment be present during alignment procedures.

- R.** A registrant shall not conduct a laser light show or demonstration unless the Agency has specifically exempted the show or demonstration from the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective January 2, 1996 (Supp. 96-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### **R12-1-1442. Measurements and Calculations to Determine MPE Limits for Lasers**

A registrant shall take measurements to determine MPE values in a manner consistent with the procedures contained in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1). New Section made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### **R12-1-1443. Laser Compliance Measurement Instruments**

A registrant shall ensure that the radiation output measurement is performed with an instrument that is calibrated and designed for use with the laser that is being evaluated for compliance. The registrant shall specify the date of calibration, accuracy of calibration, wavelength range, and power or energy of calibration on a legible, clearly visible label attached to the instrument.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### **R12-1-1444. Laser Classification Measurements**

- A.** A registrant shall measure accessible emission for classification:
1. Under the operational conditions and procedures that maximize accessible emission levels, including start-up, stabilized operation, and shutdown of the laser or laser facility;
  2. With all controls and adjustments listed in the operating and service instructions adjusted for the maximum accessible emission level of laser radiation that is not expected to be detrimental to the functional integrity of the laser or enclosure;
  3. At points in space to which human access is possible for a given laser configuration. If operations include the defeat of safety interlocks or removal of portions of the protective housing or enclosure, the registrant shall measure accessible emission at points accessible in that configuration;

4. With the measuring instrument detector positioned so that the maximum possible radiation is measured by the instrument; and
5. With the laser coupled to the type of laser energy source specified as compatible by the laser manufacturer and producing the maximum emission of accessible laser radiation.

- B.** A registrant shall perform measurements of accessible emission levels, used to classify laser and collateral radiation in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Section heading amended effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### **Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)**

Dielectric heaters and sealers  
Medical diathermy units  
Radar  
R.F. activated alarm systems  
Sputter devices  
R.F. activated lasers  
Edge gluers  
Industrial microwave ovens and dryers  
Asher-etcher equipment  
R.F. welding equipment  
Medical surgical coagulators

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

#### **Appendix B. Application Information**

The Agency shall issue a registration if an applicant provides the following information and fee as required in R12-1-1401(D). The Agency shall provide an application form to the applicant with a guide and upon request, assist the applicant to ensure that correct information is provided on the application form.

Name and mailing address of applicant  
Person responsible for radiation safety program  
Type of facility  
Legal structure and ownership  
Radiation source information  
Shielding information  
Equipment operator instructions and restrictions  
Classification of professional in charge  
Type of request: amendment, new, or renewal  
Protection survey results, if applicable  
Radiation Safety Officer name, if applicable  
Laser class and type, if applicable  
Information required by Article 14 for the specific source  
Use location  
Telephone number  
Facility subtype  
Signature of certifying agent  
Equipment identifiers  
Scale drawing  
Physicist name and training, if applicable  
Contact person

Applicable fee listed in Article 13 schedule

### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Repealed effective January 2, 1996 (Supp. 96-1). Appendix repealed by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). New appendix made by final rulemaking at 11 A.A.R. 61, effective February 5, 2005 (Supp. 04-4).

## Appendix C. Hair Removal and Other Cosmetic Laser or IPL Operator Training Program

1. General Considerations. An applicant shall ensure that:
  - a. The training program is specific to the medical laser or IPL device in use and the clinical procedures to be performed;
  - b. Program content is consistent with facility policy and procedure and applicable federal and state law; and
  - c. The training program addresses hazards associated with laser or IPL device use.
2. Technical Considerations. The applicant's training program shall cover all of the following technical subjects:
  - a. Laser and IPL device descriptions
  - b. Definitions
  - c. Laser and IPL device radiation fundamentals
  - d. Laser mediums, types of lasers, and other light-emitting devices – solid, liquid, gas, and IPL devices
  - e. Biological effects of laser or IPL device light
  - f. Damage mechanisms
    - i. Eye hazard
    - ii. Skin hazard (includes information regarding skin type and skin anatomy)
    - iii. Absorption and wavelength effects
    - iv. Thermal effects
  - g. Photo chemistry
  - h. Criteria for setting the Maximum Permissible Exposure (MPE) for eye and skin associated hazards
  - i. Explosive, electrical, and chemical hazards
  - j. Photosensitive medications
  - k. Fire, ionizing radiation, cryogenic hazards, and other hazards, as applicable
3. Medical Considerations. The applicant's training program shall cover all of the following medical subjects:
  - a. Local anesthesia techniques, including ice, EMLA® cream, and other applicable topical treatments
  - b. Typical laser and IPL device settings for hair removal and cosmetic procedures
  - c. Expected patient response to treatment
  - d. Potential adverse reactions to treatment
  - e. Anatomy and physiology of skin areas to be treated
  - f. Indications and contraindications for use of pigment and vascular-specific lasers for cutaneous procedures
4. General Laser or IPL device safety. The applicant's training program shall cover the following general safety subjects:
  - a. Laser and IPL device classifications
  - b. Control measures (includes information regarding protective equipment)
  - c. Manager and operator responsibilities
  - d. Medical surveillance practices
  - e. Federal and state legal requirements
  - f. Related safety issues

- i. Controlled access
- ii. Plume management
- iii. Equipment testing, aligning, and troubleshooting

### Historical Note

New appendix made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1).

## Appendix D. Laser Operator and Laser Safety Officer Training

1. Operators and personnel that work around lasers:
  - a. Fundamentals of laser operation (for example: physical principles, construction, and other basic information)
  - b. Bioeffects of laser radiation on the eye and skin
  - c. Significance of specular and diffuse reflections
  - d. Non-beam hazards of lasers (for example: electrical, chemical, and reaction byproducts)
  - e. Ionizing radiation hazards (includes information regarding x-rays from power sources and target interactions, if applicable)
  - f. Laser and laser system classifications
  - g. Control measures
  - h. Responsibilities of managers and operators
  - i. Medical surveillance practices (if applicable)
  - j. CPR for personnel servicing lasers with exposed high voltages, the capability of producing potentially lethal electrical currents, or both.
2. The LSO or other individual responsible for the safety program, evaluation of hazards, and implementation of control measures, or any others, if directed by management to obtain a thorough knowledge of laser safety:
  - a. The subjects covered in subsection (1)
  - b. Laser terminology
  - c. Laser types, wavelengths, pulse shapes, modes, power and energy
  - d. Basic radiometric units and measurement devices
  - e. MPE levels for eye and skin under all conditions
  - f. Laser hazard evaluations, range equations, and other calculations
3. Technical Considerations
  - a. Laser and IPL device descriptions
  - b. Definitions
  - c. Laser and IPL device radiation fundamentals
  - d. Laser mediums, types of lasers, and other light-emitting devices (includes information regarding diodes and solid, liquid, gas, and IPL devices)
  - e. Biological effects of laser or IPL device light
  - f. Damage mechanisms
    - i. Eye hazard
    - ii. Skin hazard (includes information regarding skin type and skin anatomy)
    - iii. Absorption and wavelength effects
    - iv. Thermal effects
  - g. Photo chemistry
  - h. Photosensitive medications
  - i. Criteria for setting the Maximum Permissible Exposure (MPE) levels for eye and skin associated hazards
  - j. Explosive, electrical, and chemical hazards
  - k. Fire, ionizing radiation, cryogenic hazards, and other hazards as applicable

**Historical Note**

New appendix made by final rulemaking at 11 A.A.R. 978, effective April 3, 2005 (Supp. 05-1).

**ARTICLE 15. TRANSPORTATION****R12-1-1501. Requirement for License**

- A. A person shall not transport radioactive material or deliver radioactive material to a carrier for transport unless the person is authorized in a general or specific license issued by the Agency or exempt under R12-1-103(A).
- B. This Article applies to any licensee to transfer licensed material if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Article authorizes possession of licensed material.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

**R12-1-1502. Definitions**

Terms defined in Article 1 have the same meaning when used in this Article.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1503. Transportation of Licensed Material**

Each licensee that transports licensed material outside the site of usage, as specified in an Agency license, or where transport is on public highways, or that delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations listed in 10 CFR 71.5, revised January 1, 2008, incorporated by reference and available under R12-1-101. This incorporated material contains no future editions or amendments.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6). Repealed effective June 13, 1997 (Supp. 97-2). New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials**

- A. A general license is issued to:
  1. Any common or contract carrier not exempt under R12-1-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of transport of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation,

49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

- B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Agency.
- C. A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1505. Storage of Radioactive Material in Transport**

- A. A carrier shall not store, for any period in excess of 72 hours, any package that contains radioactive material bearing a Department of Transportation Yellow II or Yellow III label, unless the radioactive material is stored in an area other than, and not adjacent to, any food storage area or area that is normally occupied by an individual.
- B. A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- C. Whenever a package containing radioactive material is stored in excess of 48 hours, the storage area shall be conspicuously posted according to the requirements of Article 4.
- D. When transit is interrupted and storage is required for an extended period, the following requirements apply:
  1. When radioactive materials are stored for longer than 48 hours during transit, the carrier shall notify the local fire department and provide the following information:
    - a. Warehouse location and carrier name and telephone number;
    - b. Radionuclide(s);
    - c. Activity per package in curies or becquerels and number of packages;
    - d. Form (solid, metallic, liquid, gas);
    - e. Flammability (if flammable);
    - f. Specific location in warehouse;
    - g. Estimated date of departure;
    - h. Toxicity (if toxic).
  2. If the radioactive material will be, or has been in storage for longer than 90 days, the carrier shall notify the Agency in writing and include the information required in subsection (D)(1).
  3. The licensee or carrier shall immediately notify the Department of Public Safety of an accident involving radioactive material.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1506. Preparation of Radioactive Material for Transport**

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

1. Complies with the U.S. Department of Transportation packaging, monitoring, manifesting, marking, and labeling regulations applicable to the mode of transport, (Contained in 49 CFR 171 through 180, revised October 1, 2007, or 39 CFR 111.1, revised July 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); and
2. Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
3. Prior to delivery of a package to a carrier for transport, assures that:
  - a. The package is properly closed, and
  - b. Any special instructions needed to safely open the package are made available to the consignee.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6).  
Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1507. Packaging Quality Assurance**

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B. In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- C. Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Agency.
- D. A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6).  
Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1508. Advance Notification of Nuclear Waste Transportation**

- A. Prior to the transport of any nuclear waste, as defined in Article 1, outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear

waste to a carrier for transport, each licensee shall provide advance notification of such transport to the Agency.

- B. Each advance notification required in subsection (A) above shall contain the following information:
  1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;
  2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d) (Revised October 1, 2007, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
  3. The point of origin of the shipment and the seven-day period during which departure of the shipment will occur;
  4. The seven-day period during which arrival of the shipment at state boundaries will occur;
  5. The destination of the shipment, and the seven-day period during which arrival of the shipment will occur; and
  6. A point of contact with a telephone number for current shipment information.
- C. The licensee shall make the notification required by subsection (A) in writing to the Agency. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. The licensee shall maintain a copy of the notification for one year.
- D. The licensee shall notify the Agency of any changes in shipment plans, including cancellations, rerouting, or rescheduling, provided pursuant to subsection (A). Such notification shall be by telephoning the Agency. The licensee shall maintain for one year a record of the name of the individual contacted.

**Historical Note**

Adopted effective December 20, 1985 (Supp. 85-6).  
Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 1126, effective May 9, 2003 (Supp. 03-1). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1509. General License: Plutonium-Beryllium Special Form Material**

- A. A general license is issued to any licensee of the Agency to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Article. This material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a), revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
- B. The general license applies only to a licensee who has a quality assurance program approved by the Agency as satisfying the provisions of R12-1-1507.
- C. The general license applies only when a package's contents:
  1. Contain no more than a Type A quantity of radioactive material; and
  2. Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.
- D. The general license applies only to packages labeled with a CSI which:
  1. Has been determined in accordance with subsection (E) of this Section;
  2. Has a value less than or equal to 100; and

3. For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
- E. The value for the CSI must be greater than or equal to the number calculated by the following equation:
  1.  $CSI = 10[(\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu})/24]$ ,
  2. The calculated CSI must be rounded up to the first decimal place.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (Supp. 12-3).

#### R12-1-1510. Packaging

- A. A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
  1. This general license applies only to a licensee that has a quality assurance program approved by the Agency as satisfying R12-1-1507;
  2. This general license applies only to a licensee that:
    - a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
    - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article; and
    - c. Before the licensee's first use of the package, submits in writing to the Agency the licensee's name, license number, and the package identification number specified in the package approval.
  3. This general license applies only when the package approval authorizes use of the package under this general license.
  4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.
  1. A Type B package previously approved by NRC but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of subsection (A) with the following additional conditions:
    - a. Fabrication of the packaging is satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with 10 CFR 71.85(c) (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
    - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval, as defined in 49 CFR 173.403 (Revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); and
    - c. A serial number that uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
  2. The licensee shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;
  3. Where the maximum normal operating pressure will exceed 35 kPa (5 lbf/in<sup>2</sup>) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and
  4. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the "-85" designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
    - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c) (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
    - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403 (Revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); and
    - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
  5. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
    - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73 (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
    - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73 (Revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); and
    - c. The modifications to the package satisfy the requirements of this Section.
  6. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix "-85" after receipt of an application demonstrating that the design meets the requirements of this Section.
  7. For purposes of this Section, package types are defined in 10 CFR 71.4, revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

- C. A general license is issued to any licensee of the Agency to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173 and 178 (Revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), if the following requirements are met:
1. The licensee shall maintain a quality assurance program approved by the Agency as satisfying R12-1-1507.
  2. The licensee shall:
    - a. Maintain a copy of the specification; and
    - b. Comply with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  3. The licensee may not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  4. The general license applies only when a package's contents:
    - a. Contain no more than a Type A quantity of radioactive material; and
    - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium.
  5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
    - a. Has been determined in accordance with Subsection (E) of this Section;
    - b. Has a value less than or equal to 10; and
    - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
  6. The CSI value must meet the following requirements:
    - a. The value for the CSI must be greater than or equal to the number calculated by the following equation:  $CSI = 10[(\text{grams of } ^{235}\text{U}/X) + (\text{grams of } ^{235}\text{U}/Y) + (\text{grams of } ^{235}\text{U}/Z)]$ ;
    - b. The calculated CSI must be rounded up to the first decimal place;
    - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22, (revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
    - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
    - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
      - i. Uranium-233 is present in the package;
      - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
      - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
- iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than  $\text{H}_2\text{O}$ ) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.
- D. Foreign packaging.
1. A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.12, revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.
  2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Agency as satisfying the applicable provisions of R12-1-1507.
  3. This general license applies only to:
    - a. Shipments made to or from locations outside the United States.
    - b. A licensee that:
      - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
      - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments. With respect to the quality assurance provisions of Subpart H of the regulations, the licensee is exempt from design, construction, and fabrication requirements.
- E. Assumptions as to unknown properties. When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum neutron multiplication.
- F. Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:
1. The package is proper for the contents to be shipped;
  2. The package is in unimpaired physical condition except for superficial defects such as marks or dents;
  3. Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
  4. Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
  5. Any pressure relief device is operable and set in accordance with written procedures;
  6. The package has been loaded and closed in accordance with written procedures;
  7. For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

8. Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45 (revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
9. The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443 (revised October 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.);
10. External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47 (revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), at any time during transportation; and
11. Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g) (revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), at any time during transportation.

#### Historical Note

New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2). Amended by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (12-3).

#### R12-1-1511. Air Transport of Plutonium

- A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR 107, and 171 through 180, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:
  1. The plutonium is contained in a medical device designed for individual human application; or
  2. The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for Plutonium specified in 10 CFR 71, Appendix A, Table A-2 (Revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.), and in which the radioactivity is essentially uniformly distributed; or
  3. The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R12-1-1503 and 10 CFR 71.5 (Revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.); or
  4. The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.
- B. Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

- C. For a shipment of plutonium by air that is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, revised October 1, 2007, incorporated by reference, and available under R12-1-101. This U.S. Department of Transportation regulation is applicable to the air transport of plutonium. This incorporated material contains no future editions or amendments.

#### Historical Note

New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

A licensee shall provide advance notification to the Governor, or the Director of the Agency, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

#### Historical Note

New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### R12-1-1513. Opening Instructions

Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with 10 CFR 20.1906(e) revised January 1, 2010, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1895, effective September 10, 2012 (12-3).

#### R12-1-1514. Reserved

#### R12-1-1515. Exemption for Low-level Radioactive Materials

A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14(a), revised January 1, 2008, incorporated by reference, and available under R12-1-101. This incorporated material contains no future editions or amendments.

#### Historical Note

New Section made by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

#### Appendix A. Repealed

#### Historical Note

Adopted effective December 20, 1985 (Supp. 85-6). Repealed effective June 13, 1997 (Supp. 97-2).

#### ARTICLE 16. RESERVED

#### ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES

#### R12-1-1701. Definitions

"Energy compensation source (ECS)" means a small sealed source, with activity that does not exceed 3.7 Mbq (100 microcuries), contained within a logging tool or other tool component.

"Tritium neutron generator target source" means a tritium source contained within a tritium neutron generator tube that produces neutrons for use in well logging applications.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R.



2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1702. Agreement with Well Owner or Operator**

- A.** A licensee that performs wireline service (well logging) with a sealed source shall enter into a written agreement with the employing well owner or operator that identifies the party responsible for complying with each of the following requirements. The responsible party shall:
1. Make a reasonable effort to recover any sealed source that may be lodged in the well;
  2. Not attempt to recover a sealed source in a manner which, in the licensee's opinion, is likely to result in its rupture;
  3. Perform the radiation monitoring required in R12-1-1723(A);
  4. Decontaminate anyone or anything contaminated with licensed material before releasing personnel or equipment from the site or releasing the site for unrestricted use; and
  5. If a source is classified by the Agency as irretrievable after reasonable efforts at recovery, implement the following requirements within 30 days:
    - a. Immobilize the irretrievable well logging source and seal it in place with a cement plug;
    - b. Provide a means to prevent inadvertent intrusion that could damage the source, unless the site is rendered inaccessible to subsequent drilling operations; and
    - c. Mount a permanent identification plaque, constructed of long-lasting material, such as stainless steel, brass, bronze, or Monel, in a conspicuous location adjacent to the well. The responsible party shall ensure that the plaque size is at least 17 cm (7 inches) square and 3 mm (1/8 inch) thick and the following information is written on the plaque:
      - i. The word "CAUTION,"
      - ii. The radiation symbol (the color requirement in R12-1-428(A) does not apply),
      - iii. The date the source was abandoned,
      - iv. The name of the well owner or operator that employed the licensee;
      - v. The well name and identification number or other designation,
      - vi. An identification of each source by radionuclide and quantity of radionuclide,
      - vii. The depth of the source and depth to the top of the plug, and
      - viii. The following warning, "DO NOT RE-ENTER THIS WELL," and
    - d. Notify the Oil and Gas Conservation Commission, Department of Water Resources, or Department of Environmental Quality of the abandoned source, as required by law.
- B.** A licensee shall maintain a copy of the agreement at the field station during logging operations. The licensee shall retain a copy of the written agreement for three years after completion of the well logging operation.
- C.** A licensee may apply in accordance with A.R.S. § 30-654(B)(13) for Agency approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in subsection (A)(5).
- D.** A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are employed by the same corporation or other business entity. If so, the licensee shall comply with the requirements in subsections (A)(1) through (A)(5).

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended

by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1703. Limits on Levels of Radiation**

A person in possession of any source of radiation shall transport the source according to 12 A.A.C. 1, Article 15, and use or store the source in a manner that is consistent with the dose limits in 12 A.A.C. 1, Article 4.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1704. Reserved**

**R12-1-1705. Reserved**

**R12-1-1706. Reserved**

**R12-1-1707. Reserved**

**R12-1-1708. Reserved**

**R12-1-1709. Reserved**

**R12-1-1710. Reserved**

**R12-1-1711. Reserved**

**R12-1-1712. Storage Precautions**

- A.** A person storing or transporting a source of radiation shall place the source in an approved storage container, transport container, or both. The container or combination of containers shall have a lock, or tamper-proof seal for calibration sources, to prevent unauthorized removal of the source and exposure to radiation.
- B.** A person storing or transporting a source of radiation shall store the source in a manner that will minimize danger from explosion or fire.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1713. Transportation Precautions**

Each licensee shall ensure that transport containers are physically secured in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 15 A.A.R. 1023, effective August 1, 2009 (Supp. 09-2).

**R12-1-1714. Radiation Survey Instruments**

- A.** A licensee shall maintain at each field station and temporary job site a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation. The licensee shall ensure that the radiation survey instrument is capable of measuring 1.0 microsievert (0.1 millirem) per hour through 500 microsievert (50 millirem) per hour.
- B.** A licensee shall ensure that additional calibrated and operable radiation detection instruments are available as needed and that the instruments are sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source is ruptured.
- C.** A licensee shall ensure that the radiation survey instrument required in subsection (A) is calibrated
1. At intervals not to exceed six months and after each instrument servicing;

2. At energies comparable to the energies of the radiation sources used;
  3. For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale or for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and
  4. So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- D.** A licensee shall retain calibration records for a period of three years from the date of calibration.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1715. Leak Testing of Sealed Sources

- A.** A licensee that uses a sealed source shall ensure that the source is tested for leakage according to subsection (C). The licensee shall maintain a record of leak test results in units of Becquerels (Bq) or microcuries, for inspection by the Agency for three years after the leak test is performed.
- B.** A person authorized under R12-1-417(C) shall wipe a sealed source using a leak test kit or a similar method approved by the Agency, NRC, or another Agreement State. The authorized person shall take the wipe sample from the nearest accessible point to the sealed source where contamination might accumulate, and ensure the wipe sample is analyzed for radioactive contamination. The authorized person shall use a method of analysis capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample.
- C.** Test frequency.
1. A licensee shall ensure that each sealed source (except an energy compensation source (ECS)) is tested in accordance with R12-1-417. In the absence of a certificate from a transferor that a test has been performed within six months before transfer, a licensee shall not use the sealed source until it is tested.
  2. A licensee shall ensure that each ECS that is not exempt from testing under subsection (E) is tested at intervals that do not exceed three years. In the absence of a certificate from a transferor that a test has been performed within three years before transfer, a licensee shall not use the ECS until it is tested.
- D.** Removal of leaking source from service.
1. If a test conducted according to this Section reveals the presence of 185 Bq (0.005 microcuries) or more of removable radioactive material, a licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by an Agency, NRC, or Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if the equipment is contaminated, have it decontaminated or disposed of by an Agency, NRC, or Agreement State licensee that is authorized to perform the chosen function.
  2. A licensee shall submit a report to the Agency, within five days of receiving positive test results. The report shall describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and each corrective action taken up to the date on the report.
- E.** The following sealed sources are exempt from the periodic leak test requirements in subsections (A) through (D):
1. Hydrogen-3 (tritium) sources;

2. Sources that contain licensed material with a half-life of 30 days or less;
3. Sealed sources that contain licensed material in gaseous form;
4. Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and
5. Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-1716. Inventory

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Agency. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-1717. Utilization Records

Each licensee shall maintain records of use for three years from the date of the recorded event, that contain the following information for each source of radiation:

1. Make, model number, and serial number or a description of each source of radiation used;
2. The identity of the well-logging supervisor or the field unit to which the source is assigned;
3. Locations and dates of use; and
4. In the case of tracer materials and radioactive markers, the radionuclide and activity undertaken in a particular well.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1718. Design and Performance Criteria for Sealed Sources

- A.** A licensee shall use a sealed source for well logging applications if the sealed source:
1. Is doubly encapsulated;
  2. Contains licensed material in a chemical and physical form that is insoluble and nondispersible; and
  3. Meets the requirements of subsection (B), (C), or (D).
- B.** For a sealed source manufactured on or before July 14, 1989, a licensee may use a sealed source in well logging applications that meets the requirements of USASI N5.4-1968, Classification of Sealed Radioactive Sources, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Agency, or the requirements in subsection (C) or (D). This incorporation by reference contains no future editions or amendments.

- C. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications that meets the oil-well logging requirements of ANSI/HPS N43.6-1997, Sealed Radioactive Sources--Classification, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- D. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications if the sealed source's prototype has been tested and found to maintain its integrity after each of the following required tests:
  1. Temperature. The test source is held at  $-40^{\circ}\text{C}$  for 20 minutes and  $600^{\circ}\text{C}$  for one hour, and then subjected to a thermal shock with a temperature drop from  $600^{\circ}\text{C}$  to  $20^{\circ}\text{C}$  within 15 seconds.
  2. Impact. A 5 kg steel hammer, 2.5 cm in diameter, is dropped from a height of 1 m onto the test source.
  3. Vibration. The test source is subjected to vibration in the 25 Hz to 500 Hz range at 5 g amplitude for 30 minutes.
  4. Puncture. A 1 gram hammer with a pin, 0.3 cm in diameter, is dropped from a height of 1 m onto the test source.
  5. Pressure. The test source is subjected to an external pressure of  $1.695 \times 10^7$  pascals (24,600 pounds per square inch absolute).
- E. The requirements in subsections (A), (B), (C), and (D) do not apply to a sealed source that contains licensed material in gaseous form.
- F. The requirements in subsections (A), (B), (C), and (D) do not apply to an energy compensation source (ECS).

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

#### R12-1-1719. Labeling

- A. A licensee shall mark each source, source holder, or logging tool that contains radioactive material with a durable, legible, and clearly visible marking or label, consisting at minimum of the standard radiation caution symbol, without the conventional color requirement, and the following wording:  
DANGER (or: CAUTION)  
RADIOACTIVE
- B. A licensee shall permanently attach to each transport container a durable, legible, and a clearly visible label consisting at minimum, of the standard radiation caution symbol and the following wording:

DANGER (or: CAUTION)  
RADIOACTIVE  
NOTIFY CIVIL AUTHORITIES (or name of company)

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1720. Inspection, Maintenance, and Opening of a Source or Source Holder

- A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the

licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.

- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing: date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Agency.
- D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Agency.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Agency, NRC, or an Agreement State.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-1721. Training

- A. A licensee shall not permit an individual to act as a logging supervisor until that person has:
  1. Completed training in the subjects outlined in subsection (E);
  2. Received copies of, and instruction in:
    - a. The applicable rules contained in 12 A.A.C. 1;
    - b. The Agency license under which the logging supervisor will perform well logging; and
    - c. The licensee's operating and emergency procedures, required by R12-1-1722;
  3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
  4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.
- B. The licensee shall not permit an individual to act as a logging assistant until that person has:
  1. Received instruction in applicable rules of 12 A.A.C. 1;
  2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R12-1-1722;
  3. Demonstrated understanding of the materials listed in subsections (B)(1) and (B)(2) by successfully completing a written or oral test; and
  4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.

- C. A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.
- D. A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.
- E. A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):
  - 1. Fundamentals of radiation safety, including:
    - a. Characteristics of radiation;
    - b. Units of radiation dose and quantity of radioactivity;
    - c. Hazards of exposure to radiation;
    - d. Levels of radiation from licensed material;
    - e. Methods of controlling radiation dose (time, distance, and shielding); and
    - f. Radiation safety practices, including prevention of contamination and methods of decontamination;
  - 2. Radiation detection instruments, including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  - 3. Equipment, including:
    - a. Operation of equipment, including source handling equipment and remote handling tools;
    - b. Storage, control, and disposal of licensed material; and
    - c. Maintenance of equipment;
  - 4. The requirements of pertinent federal and state law, and
  - 5. Case histories of accidents in well logging.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-1722. Operating and Emergency Procedures

Each licensee shall develop operating and emergency procedures on the following subjects:

- 1. Procedures designed to prevent individuals from being exposed to radiation in excess of the limits in Article 4 of this Chapter. This subject includes:
  - a. Use of a sealed source in a well without a surface casing for the purposes of protecting a fresh water aquifer, as appropriate;
  - b. Methods employed to minimize exposure from inhalation or ingestion of licensed tracer materials; and
  - c. Methods for minimizing exposure of individuals in the event of an accident;
- 2. Use of remote handling tools for manipulating a radioactive sealed source or tracer;
- 3. Methods and occasions for conducting a radiation survey;
- 4. Methods and occasions for locking and securing a source of radiation;
- 5. Personnel monitoring and the use of personnel monitoring equipment;
- 6. Transportation of a source to a temporary job site or field station, including packaging and placing the source of

radiation in a vehicle, placarding the vehicle, and securing the source of radiation during transportation;

- 7. Procedure for notifying the Agency if there is an accident;
- 8. Maintenance of records;
- 9. Inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
- 10. Procedure required if a sealed source is:
  - a. Lost or lodged downhole; or
  - b. Ruptured, including safeguards to prevent job site and personnel contamination, inhalation; and ingestion
- 11. Procedures required for picking up, receiving, and opening packages that contain radioactive material; and
- 12. Procedures required for site and equipment surveys and decontamination following tracer studies.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1723. Personnel Monitoring

- A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.
- B. A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C. A licensee shall replace film badges at least monthly and replace other personnel dosimeters at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.
- D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Agency terminates the radioactive material license.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-1724. Radioactive Contamination Control

- A. If a licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by R12-1-1722.
- B. If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all affected areas, equipment, and personnel.
- C. During efforts to recover a source lodged in a well, the licensee shall continuously monitor, with a radiation detection instrument that complies with R12-1-1714 or a logging tool with a radiation detector, the well and any circulating fluids from the well to check for contamination resulting from damage to the source.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1725. Uranium Sinker Bars**

A licensee may use a uranium sinker bar for a well logging application only if it is legibly impressed with the words "Caution Radioactive-Depleted Uranium" and "Notify Civil Authorities (or company name) if Found."

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1726. Energy Compensation Source**

- A. A licensee may use an energy compensation source (ECS) in a logging tool, or other tool component, if the ECS contains a quantity of radioactive material that does not exceed 3.7 MBq (100 microcuries).
- B. If used in a well with a surface casing, an ECS is subject to all Sections of this Article except R12-1-1702, R12-1-1728, and R12-1-1751.
- C. If used in a well logging hole without a surface casing, an ECS is subject to all Sections of this Article.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1727. Neutron Generator Source**

- A. A licensee may use a tritium neutron generator source to produce neutrons for well logging applications.
- B. If the activity of a tritium neutron generator source does not exceed 1.11 TBq (30 Curies) and the source is used in a well with a surface casing, the source is subject to all Sections of this Article except R12-1-1702 and R12-1-1751.
- C. If the activity of a neutron generator source is equal to or exceeds 1.11 TBq (30 Curies) or the source is used in a well without a surface casing, the source is subject to all Sections of this Article.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1728. Use of a Sealed Source in a Well Without a Surface Casing**

A licensee may use a sealed source in a well without a surface casing if the licensee follows a procedure for reducing the probability that the source will be lodged in the well. The procedure shall be separately approved by the Agency or in a license issued by the Agency, NRC, or another Agreement State.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

**R12-1-1729. Reserved****R12-1-1730. Reserved****R12-1-1731. Security**

- A. A logging supervisor shall be physically present at a temporary job site whenever licensed material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a source becomes lodged in a well.
- B. During well logging, except when a radiation source is below ground or in a shipping or storage container, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent

unauthorized entry into a restricted area, as defined in R12-1-102.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1732. Handling tools**

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2).

**R12-1-1733. Subsurface Tracer Studies**

- A. Any person who handles radioactive tracer material shall wear protective gloves and other appropriate protective clothing and equipment. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.
- B. A licensee shall not inject radioactive material into potable aquifers without authority granted in a radioactive material license issued by the Agency.
- C. A licensee shall dispose of tracer study waste contaminated with radioactive material in accordance with R12-1-434.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators**

- A. A licensee or registrant may use a sealed source in a well without a surface casing to protect a fresh water aquifer if the licensee follows the correct procedure for reducing the probability that the source will become lodged in the well.
- B. A licensee or registrant shall not begin well logging operations in a well without a surface casing unless the Agency has approved the licensee's procedure for logging in an uncased hole.
- C. A licensee or registrant shall not permit above-ground testing of a particle accelerator, designed for use in well-logging, which results in the production of radiation, unless the area or facility affected is controlled or shielded in a manner consistent with applicable requirements in Article 4 of this Chapter.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

**R12-1-1735. Reserved****R12-1-1736. Reserved****R12-1-1737. Reserved****R12-1-1738. Reserved****R12-1-1739. Reserved****R12-1-1740. Reserved****R12-1-1741. Radiation Surveys**

- A. A licensee shall perform and make a record of a radiation survey using instruments or calculations of radiation levels in each area where radioactive material is stored.
- B. A licensee shall make and record a radiation survey using instruments or calculations of radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. The survey or calculation shall include

each source of radiation or combination of sources to be transported in the vehicle.

- C. After removal of the sealed source from the logging tool and before departing the job site, a licensee shall ensure that the logging tool detector is energized, or a survey meter is used to test the logging tool for contamination. The licensee shall record the test for contamination.
- D. The licensee shall make and record each survey using an appropriate survey instrument for the radionuclide being used, at the job site or wellhead for each tracer operation, except those using Hydrogen-3, Carbon-14 and Sulfur-35. Each survey shall include measurements of radiation levels before and after each tracer operation.
- E. Records of surveys conducted according to subsections (A) through (D) shall include the date of each survey, the identification of each individual making the survey, identification of each survey instrument used, each radiation measurement in millirem or microsievert per hour, and an exact description of the location of the survey. A licensee shall retain records of a survey for three years after completion of the survey.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3).

#### R12-1-1742. Documents and Records Required at Field Stations

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 12 A.A.C. 1;
2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R12-1-1722;
4. The record of radiation survey instrument calibrations required by R12-1-1714;
5. The record of leak test results required by R12-1-1715;
6. Physical inventory records required by R12-1-1716;
7. Utilization records required by R12-1-1717;
8. Records of inspection and maintenance required by R12-1-1720;
9. Training records required by R12-1-1721; and
10. Survey records required by R12-1-1741.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

#### R12-1-1743. Documents and Records Required at Temporary Job Sites

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R12-1-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R12-1-1714;
3. The most current survey records required by R12-1-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R12-1-320, a copy of the Agency authorization for use of radioactive material in Arizona.

#### Historical Note

Adopted effective April 2, 1990 (Supp. 90-2). Amended

effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 4458, effective December 4, 2004 (Supp. 04-4).

**R12-1-1744. Reserved**

**R12-1-1745. Reserved**

**R12-1-1746. Reserved**

**R12-1-1747. Reserved**

**R12-1-1748. Reserved**

**R12-1-1749. Reserved**

**R12-1-1750. Reserved**

#### R12-1-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources

- A. If, after making a reasonable effort to recover a sealed source or device that contains radioactive material using methods that are not likely to result in damage or rupture and contamination, a licensee determines that the source or device is lodged in a well, the licensee shall:
  1. Immediately notify the Agency by telephone of the circumstances that resulted in the inability to retrieve the source and, if there is no evidence of contamination, obtain the following from the Agency:
    - a. A determination that the source is irretrievable and abandonment is necessary because further efforts to recover the source are likely to result in an immediate threat to public health and safety, and
    - b. An approval to implement abandonment procedures;
  2. Advise the well owner or operator, as applicable, of the abandonment procedures implemented under R12-1-1702(A) and (C); and
  3. Either ensure that abandonment procedures are implemented within 30 days after the Agency classifies the source as irretrievable or request an extension of time if unable to complete abandonment procedures.
- B. A licensee shall immediately notify the Agency by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured or the well has otherwise been contaminated. The letter shall describe the well location, the magnitude and extent of radioactive contamination, the consequences of the rupture, and the efforts planned or initiated to mitigate the consequences.
- C. A licensee shall notify the Agency of the theft or loss of any radioactive material, radiation overexposure, excessive levels and concentrations of radiation, and incidents as required by R12-1-443, R12-1-444, and R12-1-445.
- D. A licensee shall, within 30 days after a sealed source has been classified as irretrievable, report in writing to the Agency. The licensee shall send a copy of the report to each state or federal agency that issued permits or otherwise approved of the drilling operation. The report shall contain the following information:
  1. Date of occurrence;
  2. A description of the irretrievable well logging source involved, including the name of the radionuclide and its quantity, and the chemical and physical form of the radionuclide;
  3. Surface location and identification of the well;
  4. Results of efforts to immobilize and seal the source in place;
  5. A brief description of the attempted recovery effort;
  6. Depth of the source;
  7. Depth of the top of the cement plug;
  8. Depth of the well;

## Radiation Regulatory Agency

9. The reasons why further efforts to recover the source are likely to result in an immediate threat to public health and safety, necessitating abandonment;
10. Information contained on the permanent identification plaque; and
11. State and federal agencies receiving a copy of the report.

**Historical Note**

Adopted effective April 2, 1990 (Supp. 90-2). Amended effective June 13, 1997 (Supp. 97-2). Amended by final rulemaking at 9 A.A.R. 4302, effective November 14, 2003 (Supp. 03-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2122, effective July 3, 2004 (Supp. 04-2).

This page intentionally left blank.





**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

---

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

---

Follow the instructions to replace the updated pages.

### **TITLE 13. PUBLIC SAFETY**

#### **Chapter 11 – Board of Fingerprinting**

Sections, Parts, Exhibits, Tables or Appendices modified  
R13-11-101 through R13-11-113

☐ **REMOVE**

Supp. 07-3  
pages 1-4



**REPLACE**  
with

Supp. 12-3  
pages 1-4

This page intentionally left blank.

## Board of Fingerprinting

## TITLE 13. PUBLIC SAFETY

## CHAPTER 11. BOARD OF FINGERPRINTING

(Authority: A.R.S. §§ 41-619.53(A)(2) and 41-619.55(A)(1))

*Title 13, Chapter 11, consisting of Sections R13-11-101 through R13-11-105, adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3).*

## ARTICLE 1. BOARD OF FINGERPRINTING

## Section

- R13-11-101. Applicability
- R13-11-102. Definitions
- R13-11-103. Repealed
- R13-11-104. Application Requirements
- R13-11-105. Expedited Review
- R13-11-106. Request to Vacate, Reschedule, or Continue Hearing; Reconvening a Hearing
- R13-11-107. Telephonic Testimony
- R13-11-108. Hearings
- R13-11-109. Ex Parte Communications
- R13-11-110. Rehearing or Review of Decision
- R13-11-111. Repealed
- R13-11-112. Repealed
- R13-11-113. Fees

## ARTICLE 1. BOARD OF FINGERPRINTING

**R13-11-101. Applicability**

This Article applies to activities and persons identified in A.R.S. Title 41, Chapter 3, Article 12.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3). Amended by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Amended by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-102. Definitions**

In this Article, the following definitions apply, unless the context otherwise requires:

1. "Applicant" means a person who applies for a good cause exception under A.R.S. § 41-619.55 or a central registry exception under A.R.S. § 41-619.57.
2. "Board" means the Board of Fingerprinting.
3. "Central registry exception" means notification to the Department of Economic Security or the Department of Health Services, as appropriate, pursuant to A.R.S. § 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to A.R.S. § 8-804.
4. "Central registry exception application" means all the documents required by A.A.C. R13-11-104(B).
5. "CPS" means Child Protective Services.
6. "DES" means the Department of Economic Security.
7. "DES notice" means the notice of disqualification because of a central registry background check that the Department of Economic Security sends to an applicant under A.R.S. § 8-804(H).
8. "DPS" means the Department of Public Safety.
9. "DPS notice" means the notice of denial or suspension of a fingerprint clearance card that the Department of Public

Safety sends to a fingerprint clearance card applicant under A.R.S. § 41-1758.04.

10. "Expedited review" means an examination by the Board, without the applicant being present and in accordance with R13-11-105, of the documents an applicant submits.
11. "Good cause exception" means the issuance of a fingerprint clearance card to an applicant under A.R.S. § 41-619.55.
12. "Good cause exception application" means all of the documents required by A.A.C. R13-11-104(A).
13. "Hearing officer" means an administrative law judge or other person appointed by the Board to determine good cause exceptions or central registry exceptions.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3). Former Section R13-11-102 renumbered to R13-11-103; new Section R13-11-102 made by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Amended by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2564, effective September 25, 2012 (Supp. 12-3).

**R13-11-103. Repealed****Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3). Former Section R13-11-103 renumbered to R13-11-104; new Section R13-11-103 renumbered from R13-11-102 by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Amended by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Repealed by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-104. Application Requirements**

- A. Good cause exception application. A good cause exception application shall consist of both the criminal history information provided by DPS and the following materials submitted by an applicant to the Board:
  1. The good cause exception application form prescribed by the Board. This form shall be notarized.
  2. Two letters of reference on forms prescribed by the Board that meet the following requirements:
    - a. Both letters of reference shall be from individuals who have known the applicant for at least one year; and
    - b. At least one letter of reference shall be from the applicant's current or former employer or from an individual who has known the applicant for at least three years.

## Board of Fingerprinting

3. If the DPS notice indicates that DPS could not determine the disposition of a charge, documents from the appropriate court showing the disposition of the charge or showing that records pertaining to the applicant either do not exist or have been purged.
  4. For any charges that occurred five years or less prior to the date on the DPS notice, regardless of whether the charges were listed on the DPS notice, the police report for each charge and documents from the appropriate court showing the disposition of the charge.
  5. For every criminal conviction, regardless of whether the offenses were listed on the DPS notice, documents from the appropriate court showing that the applicant has met all judicially imposed obligations or sentencing conditions or that records pertaining to the applicant either do not exist or have been purged. If the applicant has not met all judicially imposed obligations or sentencing conditions, the applicant shall provide a written statement indicating or documents from the appropriate court showing the status of the applicant's efforts toward meeting the obligations.
  6. A statement written by the applicant that explains each charge, regardless of whether the charges were listed on the DPS notice.
- B.** Central registry exception application. A central registry exception application shall consist of the criminal history information provided by DPS, the redacted CPS report and investigative information provided by DES, and the following materials submitted by an applicant to the Board:
1. The central registry exception application form prescribed by the Board. This form shall be notarized.
  2. Two letters of reference on forms prescribed by the Board that meet the following requirements:
    - a. Both letters of reference shall be from individuals who have known the applicant for at least one year; and
    - b. At least one letter of reference shall be from the applicant's current or former employer or from an individual who has known the applicant for at least three years.
  3. If the applicant has had any criminal charges:
    - a. Documents from the appropriate court showing the disposition of the criminal charges or showing that records pertaining to the applicant either do not exist or have been purged.
    - b. For any charges that occurred five years or less prior to the date on the DES notice, the police report for each charge and documents from the appropriate court showing the disposition of each charge.
    - c. For every criminal conviction, documents from the appropriate court showing that the applicant has met all judicially imposed obligations or sentencing conditions or that records pertaining to the applicant either do not exist or have been purged. If the applicant has not met all judicially imposed obligations or sentencing conditions, the applicant shall provide a written statement indicating or documents from the appropriate court showing the status of the applicant's efforts toward meeting the obligations.
    - d. A statement written by the applicant that explains each criminal charge.
  4. A statement written by the applicant that explains each incident that led to a substantiated allegation of child abuse or neglect.
  5. If CPS assigned a case plan to the applicant, the current CPS case plan or documentation from CPS showing that the case plan is unavailable.
- C.** The Board or its hearing officer may accept any other documents an applicant submits, as allowed by A.R.S. § 41-1062.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3). Former Section R13-11-104 renumbered to R13-11-105; new Section R13-11-104 renumbered from R13-11-103 by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Former Section R13-11-104 renumbered to R13-11-109; new Section R13-11-104 made by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-105. Expedited Review**

- A.** Within 20 days of receiving an application, the Board shall conduct an expedited review. When determining whether the applicant should receive a good cause exception or central registry exception under an expedited review, the Board shall consider the following:
1. The criteria listed in A.R.S. § 41-619.55(E) for good cause exception applications or A.R.S. § 41-619.57(E) for central registry exception applications; and
  2. Whether the documentation submitted in support of a good cause exception application or central registry exception application is sufficient to allow the Board to grant a good cause exception or central registry exception, or whether the Board requires further documentation or oral testimony.
- B.** If the Board determines that the applicant is eligible for a good cause exception or central registry exception under an expedited review, the Board shall grant the applicant a good cause exception.
- C.** If the Board determines that an applicant is not eligible for a good cause exception or central registry exception under an expedited review, the Board shall direct the Board's executive director to schedule a hearing. The Board's executive director shall give the applicant reasonable notice of the hearing in accordance with A.R.S. § 41-1061. The hearing shall take place within 45 days after the expedited review.

**Historical Note**

New Section adopted by exempt rulemaking at 5 A.A.R. 3087, effective August 19, 1999 (Supp. 99-3). Former Section R13-11-105 renumbered to R13-11-106; new Section R13-11-105 renumbered from R13-11-104 by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Section repealed; new Section made by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-106. Request to Vacate, Reschedule, or Continue Hearing; Reconvening a Hearing**

- A.** An applicant who wishes to request that the Board or its hearing officer vacate or reschedule a hearing shall submit a written request to the Board.
- B.** The Board or its hearing officer shall give an applicant written notification if a hearing has been vacated or rescheduled.

## Board of Fingerprinting

- C. Vacating a hearing. The Board or its hearing officer may vacate a hearing if:
  1. The applicant no longer requires a good cause exception or central registry exception;
  2. The applicant withdraws the application by submitting a written notice to the Board; or
  3. Facts demonstrate to the Board or its hearing officer that it is appropriate to vacate the hearing if the action will further administrative convenience, expedience, and economy and does not conflict with law or cause undue prejudice to any party.
- D. Rescheduling a hearing. The Board or its hearing officer may reschedule a hearing if:
  1. The applicant shows that attending the calendared hearing would cause excessive or undue prejudice or hardship.
  2. The applicant shows that attending the calendared hearing would be impossible, using reasonable diligence.
  3. Facts demonstrate to the Board or its hearing officer that it is appropriate to reschedule the hearing for the purpose of administrative convenience, expedience, and economy and does not conflict with law or cause undue prejudice to any party.
- E. Continuing a hearing. When ruling on a motion to continue a hearing, the Board or its hearing officer shall consider such factors as:
  1. The reasons for continuing the hearing; and
  2. Whether the continuance will cause undue prejudice to any party.
- F. Reconvening a hearing. The Board or its hearing officer may recess a hearing and reconvene at a future date by a verbal ruling.

**Historical Note**

New Section R13-11-106 renumbered from R13-11-105 by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Former Section R13-11-106 renumbered to R13-11-110; new Section R13-11-106 made by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-107. Telephonic Testimony**

- A. An applicant who wishes to submit or have a witness submit telephonic testimony at the hearing shall submit a written request to the Board.
- B. The Board or its hearing officer may allow the applicant or the applicant's witness to submit telephonic testimony at the hearing if:
  1. Personal attendance by the applicant or the applicant's witness at the hearing will present an undue hardship for the applicant or the applicant's witness;
  2. Telephonic presence will not cause undue prejudice to any party; and
  3. The applicant or the applicant's witness assumes the cost of testifying telephonically.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 3744, effective August 1, 2003 (Supp. 03-3). Former Section R13-11-107 renumbered to R13-11-111; new Section R13-11-107 made by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-108. Hearings**

- A. Absent good cause, if the applicant fails to appear at a hearing, the Board may deny the good cause exception application or central registry exception application for failure to appear at the hearing. An applicant demonstrates good cause by showing that the applicant could not have been present at the hearing or requested that the hearing be rescheduled pursuant to R13-11-106, using reasonable diligence. An applicant's failure to inform the Board of a change in address shall not constitute grounds for good cause. The Board shall determine whether good cause exists.
- B. The Board shall grant or deny a good cause exception or central registry exception within 80 days of the hearing.

**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-109. Ex Parte Communications**

- A. In any good cause exception or central registry exception case, except to the extent required for disposition of *ex parte* matters as authorized by law:
  1. No interested person outside the Board may make or knowingly cause to be made to any Board members, hearing officer, or other employee or consultant who may reasonably be expected to be involved in the decisional process of the proceeding, an *ex parte* communication relevant to the merits of the proceeding;
  2. No Board member, hearing officer, or other employee or consultant who is or may be reasonably expected to be involved in the decisional process of the proceeding, may make or knowingly cause to be made to any interested person outside the Board an *ex parte* communication relevant to the merits of the determination.
- B. A Board member, hearing officer, or other employee or consultant who is or may be reasonably expected to be involved in the decisional process of the proceeding, who receives, makes, or knowingly causes to be made a communication prohibited by R13-11-109(A), must place on the record of the proceeding and serve on all parties to the proceeding:
  1. All prohibited written communications;
  2. Memoranda stating the substance of all prohibited oral communications; and
  3. All written responses, and memoranda stating the substance of all oral responses, to the communications described in (1) and (2) of this subsection.
- C. Upon receipt of a communication made or knowingly caused to be made by a party in violation of this Section, the Board or its hearing officer may require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.
- D. The provisions of this Section apply beginning when the application for a good cause exception or central registry exception is filed.
- E. For the purposes of this Section:
  1. "Person outside the Board" means any person other than a Board member, employee or consultant of the Board, or attorney representing the Board in its adjudicatory role.
  2. "*Ex parte* communication" means an oral or written communication not on the administrative record and not the subject of reasonable prior notice to all parties.

## Board of Fingerprinting

**Historical Note**

Section renumbered from R13-11-104 and amended by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Former R13-11-109 renumbered to R13-11-111; new R13-11-109 made by exempt rulemaking at 12 A.A.R. 4898, effective December 6, 2006 (Supp. 06-4). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2564, effective September 25, 2012 (Supp. 12-3).

**R13-11-110. Rehearing or Review of Decision**

- A.** An applicant may seek a review or rehearing of a Board decision that results from an administrative hearing by submitting a written request for a review or rehearing to the Board within 30 days from the date of service of the decision. The Board shall grant a request for review or rehearing for any of the following reasons materially affecting the rights of the applicant:
1. The findings of fact, conclusions of law, or decision are not supported by the evidence or are contrary to law;
  2. The applicant was deprived of a fair hearing due to irregularity in the proceedings, abuse of discretion, or misconduct by the hearing officer;
  3. Newly discovered material evidence exists that could have a bearing on the decision and that, with reasonable diligence, could not have been discovered and produced earlier; or
  4. Error in admission or rejection of evidence or other errors of law occurring at the hearing.
- B.** The request must specify the grounds for a review or rehearing and must provide reasonable evidence that the applicant's rights were materially affected.
- C.** The Board may grant a rehearing or review for any of the reasons in subsection (A). The Board or its hearing officer may take additional testimony; amend or make new findings of fact and conclusions of law; and affirm, modify, or reverse the original decision.
- D.** A rehearing or review, if granted, must be a rehearing or review only of the issue upon which the decision is found erroneous. An order granting or denying a rehearing or review must specify the basis for the order.

**Historical Note**

Section renumbered from R13-11-106 and amended by exempt rulemaking at 9 A.A.R. 4449, effective September

26, 2003 (Supp. 03-3). Former R13-11-110 renumbered to R13-11-112; new R13-11-110 made by exempt rulemaking at 12 A.A.R. 4898, effective December 6, 2006 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Amended by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-111. Repealed****Historical Note**

Section renumbered from R13-11-107 by exempt rulemaking at 9 A.A.R. 4449, effective September 26, 2003 (Supp. 03-3). Former R13-11-111 renumbered to R13-11-113; new R13-11-111 renumbered from R13-11-109 by exempt rulemaking at 12 A.A.R. 4898, effective December 6, 2006 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 3435, effective September 19, 2007 (Supp. 07-3). Repealed by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-112. Repealed****Historical Note**

Section R13-11-112 renumbered from R13-11-110 by exempt rulemaking at 12 A.A.R. 4898, effective December 6, 2006 (Supp. 06-4). Repealed by exempt rulemaking at 18 A.A.R. 2146, effective August 8, 2012 (Supp. 12-3).

**R13-11-113. Fees**

- A.** DPS shall collect proper fees for good cause exceptions from all applicants and shall transmit the fees to the state Treasurer. A fee of \$7.00 is established for good cause exceptions and central registry exceptions.
- B.** Fees shall be paid in addition to and in the same payment as fees paid to DPS for a fingerprint clearance card application.

**Historical Note**

Section R13-11-113 renumbered from R13-11-111 by exempt rulemaking at 12 A.A.R. 4898, effective December 6, 2006 (Supp. 06-4). Amended by exempt rulemaking at 18 A.A.R. 2564, effective September 25, 2012 (Supp. 12-3).



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

Follow the instructions to replace the updated pages.

### TITLE 17. TRANSPORTATION

#### Table of Contents

<input type="checkbox"/> <b>REMOVE</b>	Supp. 11-4 pages i	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with page i
--	-----------------------	---	------------------------------

#### Chapter 3 - Department of Transportation – Highways

Sections, Parts, Exhibits, Tables or Appendices modified  
Article 7, R17-3-701

<input type="checkbox"/> <b>REMOVE</b>	Supp. 12-2 pages 1-31	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-28
--	--------------------------	---	----------------------------------

#### Chapter 5 - Department of Transportation – Commercial Programs

Sections, Parts, Exhibits, Tables or Appendices modified  
R17-5-501, R17-5-504, R17-5-506

<input type="checkbox"/> <b>REMOVE</b>	Supp. 11-3 pages 1-30	<input type="checkbox"/> <b>REPLACE</b>	Supp. 12-3 with pages 1-30
--	--------------------------	---	----------------------------------

This page intentionally left blank.



**TITLE 17. TRANSPORTATION****CHAPTER 3. DEPARTMENT OF TRANSPORTATION  
HIGHWAYS****ARTICLE 1. REPEALED**

## Section

- R17-3-101. Reserved  
R17-3-102. Repealed

**ARTICLE 2. MANAGEMENT OF CONTRACTOR BIDDING**

*Article 2, consisting of Sections R17-3-201 through R17-3-204, adopted effective March 3, 1987.*

## Section

- R17-3-201. General  
R17-3-202. Contractor Prequalification  
R17-3-203. Reduced Prequalification Amounts or Disqualifications  
R17-3-204. Access to Department Prequalification Files

**ARTICLE 3. RELOCATION ASSISTANCE**

*Article 3, consisting of Sections R17-3-301 through R17-3-304, repealed; new Article 3, consisting of Sections R17-3-301 through R17-3-306, made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).*

## Section

- R17-3-301. Relocation Assistance; Adoption of Federal Regulations  
R17-3-302. Relocation Assistance; 49 CFR Part 24, Subpart A – General  
R17-3-303. Relocation Assistance; 49 CFR Part 24, Subpart C – General Relocation Requirements  
R17-3-304. Relocation Assistance; 49 CFR Part 24, Subpart D – Payments for Moving and Related Expenses  
R17-3-305. Relocation Assistance; 49 CFR Part 24, Subpart E – Replacement Housing Payments  
R17-3-306. Relocation Assistance; Appendix A to Part 24 – Additional Information

**ARTICLE 4. REPEALED**

*Article 4, consisting of Sections R17-3-406 through R17-3-408, repealed by final rulemaking at 8 A.A.R. 849, effective February 8, 2002 (Supp. 02-1).*

## Section

- R17-3-401. Repealed  
R17-3-402. Repealed  
R17-3-403. Recodified  
R17-3-404. Repealed  
R17-3-405. Reserved  
R17-3-406. Repealed  
R17-3-407. Repealed  
R17-3-408. Repealed

*Editor's Note: The Article 5 heading "Highway Encroachments and Permits" is published as submitted by the Department (Supp. 04-4).*

**ARTICLE 5. HIGHWAY ENCROACHMENTS AND  
PERMITS**

*Article 5, consisting of Sections R17-3-501 through R17-3-509, made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).*

## Section

- R17-3-501. Definitions

- R17-3-502. Applicability  
R17-3-503. Who Can Apply for an Encroachment Permit  
R17-3-504. General Application Procedures  
R17-3-505. Supporting Documentation  
R17-3-506. Encroachment Permit Requirements  
R17-3-507. Review Procedures  
R17-3-508. Unauthorized Encroachments; Enforcement Actions  
R17-3-509. Hearings

**ARTICLE 6. RESERVED****ARTICLE 7. HIGHWAY BEAUTIFICATION**

## Section

- R17-3-701. Outdoor Advertising Control  
Exhibit 1. Expired  
Exhibit 2. Expired  
Exhibit 3. Expired  
Exhibit 4. Expired  
Exhibit 5. Expired  
Exhibit 6. Expired  
Exhibit 7. Expired  
Exhibit 8. Expired  
Exhibit 9. Expired  
R17-3-701.01. Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits  
R17-3-702. Repealed  
R17-3-703. Arizona Junkyard Control

**ARTICLE 8. ARIZONA PARKWAYS AND HISTORIC AND  
SCENIC ROADS**

*Article 8 consisting of Sections R17-3-801 through R17-3-809 adopted effective May 30, 1984.*

## Section

- R17-3-801. General Provisions  
R17-3-802. Meetings and Organization of PHSRAC  
R17-3-803. Request to Designate a Road  
R17-3-804. PHSRAC's Process  
R17-3-805. Reconsideration of PHSRAC's Decision  
R17-3-806. Review of Existing Designated Parkway or Historic or Scenic Road  
R17-3-807. Approvals and Agreements Between Agencies for Designation  
R17-3-808. Construction and Maintenance Standards; Signing  
R17-3-809. Repealed

**ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES**

## Section

- R17-3-901. Signing for Colleges and Universities  
R17-3-902. Logo Sign Programs  
R17-3-903. Urban Logo Sign Program and Requirements  
R17-3-904. Rural Logo Sign Program  
Appendix A. Repealed  
Appendix B. Repealed  
R17-3-905. Rural Logo Sign Requirements  
R17-3-906. Existing Leases  
Illustration A. Repealed  
Illustration B. Repealed  
Illustration C. Repealed  
R17-3-907. Repealed

R17-3-908. Repealed  
 R17-3-909. Repealed

### ARTICLE 1. REPEALED

**R17-3-101. Reserved**

**R17-3-102. Repealed**

#### Historical Note

Former Rule, ASHC Resolution. Former Section R17-3-10 renumbered without change as Section R17-3-102 (Supp. 88-4). Repealed effective May 31, 1991 (Supp. 91-2).

### ARTICLE 2. MANAGEMENT OF CONTRACTOR BIDDING

#### R17-3-201. General

##### A. Definitions.

1. "Application" means a request for contractor prequalification, consisting of an application booklet available from the Department's office of Contracts and Specifications, and a financial statement prepared according to the requirements of this subsection and R17-3-202.
2. "Board" means the Contractor Prequalification Board.
3. "Compiled financial statement" means a financial statement prepared for form, appropriateness, and arithmetic accuracy. It does not express an opinion or provide any assurance regarding the financial statement.
4. "Contractor" means the individual, partnership, firm, corporation, joint venture, or any combination acceptable to the Department, that seeks to contract with the Department for constructing or reconstructing state transportation facilities, unless the context requires otherwise.
5. "Contractor prequalification" means the Department's process of review and evaluation of a contractor's work history and current financial condition before a contractor is allowed to submit a proposal for constructing or reconstructing state transportation facilities.
6. "Department" means the Arizona Department of Transportation.
7. "Examined financial statement" means a financial statement that includes the amounts and disclosures in the firm's financial statement, an assessment of the accounting principles used and the significant estimates made by management, and an evaluation of the overall financial statement presentation.
8. "Financial statement" means a financial report prepared according to generally accepted accounting principles by an independent certified public accountant or an independent public accountant. The financial statement includes a cover letter on the accountant's letterhead, a balance sheet, a statement of cash flows, an income statement, and all notes and appropriate supporting schedules.
9. "Joint venture" means the combination of two or more contractors for the purpose of submitting a proposal to the Department and performing a contract for constructing or reconstructing state transportation facilities.
10. "Prequalification amount" means the dollar limitation of each contract, based on the Department's estimate of contract value, for which a contractor may submit a proposal to the Department for constructing or reconstructing state transportation facilities.
11. "Reviewed financial statement" means a financial statement that includes an inquiry of company personnel, and a review of the analytical procedures applied to the financial data. It does not express an opinion regarding the financial statement taken as a whole.
12. "State Engineer" has the meaning in A.R.S. § 28-6901(3).

##### B. Contractor Prequalification Board.

1. The State Engineer shall appoint the Board to consider and decide on applications for contractor prequalification.
2. The Board will be comprised of three Department employees, one of whom shall be a professional engineer, registered by the Arizona Board of Technical Registration, and one a certified or licensed public accountant.
3. The Board's authority to determine prequalification does not limit the Department's ability to establish additional criteria for contracts.

#### Historical Note

Adopted effective March 3, 1987 (Supp. 87-1). Amended by final rulemaking at 8 A.A.R. 79, effective December 10, 2001 (Supp. 01-4).

#### R17-3-202. Contractor Prequalification

##### A. Criteria. An applicant for contractor prequalification shall include on the application and the Board shall consider the following information in determining the prequalification amount for a contractor:

1. Key personnel and their work experience,
2. Organizational structure,
3. History of past or current projects and contracts,
4. Company affiliations,
5. Equipment owned or controlled,
6. Any applicable licenses,
7. Type of work requested,
8. Individuals authorized to act on behalf of the contractor,
9. Any prequalification or bidding disputes with a government agency, and
10. Financial condition.

##### B. Prequalification Expiration and Extension.

1. Prequalification expires 15 months after the end of a contractor's fiscal year, as reflected on the financial statement. Due to the time necessary to prepare an examined financial statement, the Board may grant up to a 60 day extension on the expiration of prequalification, if:
  - a. The contractor submits a letter from its accountant stating the reasons for delay in preparing the examined financial statement,
  - b. The letter from the accountant states the anticipated completion date of the examined financial statement, and
  - c. The contractor submits an interim compiled or reviewed financial statement that was prepared within the previous six months.
2. The Board will notify each contractor in writing of its decision on the contractor's prequalification amount.

##### C. Joint Ventures.

1. Each contractor in a proposed joint venture shall be prequalified. The joint venture shall submit a joint venture statement of intent at least five calendar days before the applicable bid opening date.
2. If one or more of the parties to the joint venture are corporations, a copy of a resolution from the Board of Directors authorizing the corporation to enter into the joint venture and execute all contract documents shall be submitted with the statement of intent.
3. Contractors operating as a joint venture on a continuing basis may file for prequalification as a joint venture.
4. The Board may allow a contractor operating as a joint venture to prequalify for a pro rata share of the entire contract amount. The percentage share of work shall not exceed each individual contractor's prequalification amount.

**D. Classification of Contractors.** The Board shall categorize contractors into the following classifications:

1. Inexperienced firms: Firms that have no experience as contractors in transportation facilities construction work;
2. New firms: Recently organized firms that have officers with experience with other contractors in positions of responsibility for transportation facilities construction;
3. Unknown firms: Firms that have experience as contractors but have not completed a transportation facilities construction contract as a contractor for the Department within the past five years or at any time;
4. Known firms: Firms that have successfully completed at least one transportation facilities construction contract within the past five years as a contractor for the Department.

**E. Classification of Financial Statements.**

1. All financial statements shall be examined, reviewed, or compiled according to generally accepted accounting principles, by either an independent certified public accountant or an independent public accountant, registered and licensed under the laws of any state. A contractor shall not submit a financial statement prepared by either a certified or public accountant who is directly or indirectly interested in or affiliated with the business of the contractor.
2. A contractor that desires a prequalification amount in excess of \$1.5 million shall submit an examined financial statement.
3. A contractor that submits a reviewed financial statement will be limited to a maximum prequalification amount of \$1.5 million.
4. A contractor that submits a compiled financial statement will be limited to a maximum prequalification amount of \$300,000.

**F. Prequalification Limits.** In determining the prequalification amount for each contractor, the amount set by the Board may be less than the maximum amount set out in this subsection due to the Board's evaluation of the contractor's information under R17-3-202(A).

1. Inexperienced firms. An inexperienced firm will be limited to a maximum prequalification amount of \$300,000 until the contractor has satisfactorily completed at least one transportation facilities construction contract for any public agency.
2. New firms. A new firm will be limited to a maximum prequalification amount of five times the firm's net worth.
3. Unknown firms. An unknown firm will be limited to a maximum prequalification amount of five times the firm's net worth or the amount of the largest transportation facilities construction contract it has successfully completed as a contractor for any other public agency, whichever is larger.
4. Known firms. A known firm will be limited to a maximum prequalification amount of ten times the firm's net worth. An unlimited prequalification amount may be granted if the product of ten times the firm's net worth exceeds \$100 million.
5. All firms. Evidence of additional assets pledged in behalf of a contractor or letters from a contractor's surety company may be considered in establishing higher prequalification amounts than stated in subsections (F)(2) through (F)(4). A parent company that pledges assets in behalf of a contractor shall submit a financial statement.

**G. Reconsideration of Prequalification Determination.**

1. If a contractor is dissatisfied with the Board's decision, the contractor may request in writing a hearing, within 15 days of receiving the Board's decision. The hearing shall be conducted under A.R.S. § 41-1062. The letter shall indicate the basis for the request and shall provide supportive data. The Board shall review the request and accompanying information and decide on the request within 30 calendar days of its receipt.
2. If the contractor is still dissatisfied with the decision of the Board, the contractor may appeal to the State Engineer. The Board shall notify the contractor about the appeal procedures.

**H. Issuance of Bidding Documents.** A contractor shall not request bid documents for a contract for which it is not prequalified.**I. The Department may waive the prequalification requirement on an individual contract when it is in the best interest of the state. The advertisement for bids shall identify if prequalification is waived.****Historical Note**

Adopted effective March 3, 1987 (Supp. 87-1). Amended by final rulemaking at 8 A.A.R. 79, effective December 10, 2001 (Supp. 01-4).

**R17-3-203. Reduced Prequalification Amounts or Disqualifications**

- A.** The Board may reduce the prequalification amount of a contractor already prequalified or disqualify a contractor from bidding if a contractor:
1. Falsifies any document or misrepresents any material fact in the information furnished to the Department;
  2. Fails to enter into a contract with the Department;
  3. Defaults on a previous contract with any public agency;
  4. Has an unsatisfactory work performance record with the Department on the basis of workmanship, competent superintendence, adequate and proper equipment, timely completion, or failure to submit required documentation for closing out a contract; or
  5. Fails to provide notification to the Board, within 30 calendar days of occurrence, of any change in ownership, corporate officers or general partners, bankruptcy, receivership, court supervised reorganization, or the entry of a judgment in a judicial or administrative proceeding adverse to the contractor.
- B.** The Board shall notify a contractor in writing of its intention to reduce the prequalification amount or to disqualify a contractor. The Board's notice to reduce prequalification or to disqualify a contractor shall become a final determination unless the contractor requests a hearing with the Board within 20 calendar days after receiving such notification. The Board shall notify the contractor about the hearing procedures.
- C.** The contractor may appeal the Board's decision to the State Engineer. The Board shall notify the contractor about the appeal procedures.

**Historical Note**

Adopted effective March 3, 1987 (Supp. 87-1). Amended by final rulemaking at 8 A.A.R. 79, effective December 10, 2001 (Supp. 01-4).

**R17-3-204. Access to Department Prequalification Files**

Prequalification files are considered to be strictly confidential. The files will be available only to:

1. Members of the Board,
2. The Director of the Department or any authorized agents of the Department,
3. Members of the Arizona State Transportation Board,

4. The division administrator of the Federal Highway Administration or any authorized representatives,
5. Agents of surety upon the filing of an application for bond duly signed by an authorizing party of the prequalified contractor,
6. Members of the Arizona State Board of Accountancy or their duly authorized representatives, and
7. The contractor that is the subject of the file.

#### Historical Note

Adopted effective March 3, 1987 (Supp. 87-1). Amended by final rulemaking at 8 A.A.R. 79, effective December 10, 2001 (Supp. 01-4).

### ARTICLE 3. RELOCATION ASSISTANCE

*Article 3, consisting of Sections R17-3-301 through R17-3-304, repealed; new Article 3, consisting of Sections R17-3-301 through R17-3-306, made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).*

#### R17-3-301. Relocation Assistance; Adoption of Federal Regulations

- A. The Department incorporates by reference 49 CFR 24.2, 24.3, 24.5, 24.8, 24.9, 24.10, 24.202, 24.203, 24.204, 24.205, 24.206, 24.207, 24.208, 24.301, 24.302, 24.303, 24.304, 24.305, 24.306, 24.401, 24.402, 24.403, 24.404, 24.501, 24.502, 24.503, 24.504, 24.505, and Appendix A to Part 24 published October 1, 2001, and no later amendments or editions, as amended by R17-3-301 through R17-3-306. The incorporated material is on file with the Arizona Department of Transportation and the Office of Secretary of State. An unofficial version of the federal regulations is available at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>.
- B. The following definitions apply for the purpose of R17-3-301 through R17-3-306 unless indicated otherwise.
 

“Department” means the Arizona Department of Transportation.

#### Historical Note

Former Rule, Right of Way Resolution 70-60. Former Section R17-3-12 renumbered without change as Section R17-3-301 (Supp. 88-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

#### R17-3-302. Relocation Assistance; 49 CFR Part 24, Subpart A – General

- A. 49 CFR 24.2, “Definitions” is amended as follows:
  1. “Agency” means the Arizona Department of Transportation.
  2. “Business” is amended to read:  
The term business means any lawful activity, including a farm operation, that is conducted:
  3. “Comparable replacement dwelling” is amended at paragraph (8)(i) to read:  
A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days before initiation of negotiations (180-day homeowner) is considered to be within the homeowner’s financial means if the homeowner will receive the price differential as described in Sec. 24.401(c), all increased mortgage interest costs as described at Sec. 24.401(d) and all incidental expenses as described at Sec. 24.401(e), plus any additional amount required to be paid under Sec. 24.404, Replacement housing of last resort.
  4. “Contribute materially” is amended to read:  
The term “contribute materially” means that during the two taxable years before the taxable year in which displacement occurs, a business:
    - a. Contributed at least 33 1/3 percent of the owner’s or operator’s average annual gross income from all sources,
    - b. Registered and has a use permit from the local political subdivision, and
    - c. Submitted federal income tax returns for the last two years.
5. “Decent, safe, and sanitary dwelling” is amended to read:  
The term decent, safe, and sanitary dwelling means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the federal agency or state agency funding the project. The dwelling shall:
  - a. Be structurally sound, weathertight, and in good repair;
  - b. Contain a safe electrical wiring system adequate for lighting and other devices; and
  - c. Contain heating and cooling systems capable of sustaining a healthful temperature for a displaced person, except in those areas where local climatic conditions do not require such systems.
6. “Displaced person” is amended to read:
  - a. General. The term “displaced person” means, except as provided in the definition of “persons not displaced,” any person who is required to move from the real property or moves his or her personal property from the real property as a direct result of the real property being acquired in whole or in part for an approved State project as a result of a written notice of intent to acquire:
    - i. This includes a person who occupies the real property before its acquisition but does not meet the length of occupancy requirements for relocation assistance other than reimbursement of moving expenses.
    - ii. Any person who does not meet the statutory occupancy requirements and is unable to obtain comparable replacement housing within the person’s financial means is eligible for assistance only under Sections 24.401 and 24.402, as qualified by Section 24.404, in obtaining comparable, decent, safe and sanitary housing.
  - b. “Persons not displaced” is amended as follows:
    - i. Amend paragraph (2)(i) to read:  
A person who moves before the initiation of negotiations unless this requirement is waived by the Department due to a move necessitated for reasons beyond the person’s control.
    - ii. Delete paragraphs (2)(v), (2)(viii), (2)(ix), and (2)(x).
7. “Initiation of negotiations” is amended to have the same meaning as prescribed in A.R.S. § 28-7141(8).
8. “Notice of intent to acquire or notice of eligibility for relocation assistance” is amended to read:  
Written notice furnished to a person to be displaced that establishes eligibility for relocation benefits before the initiation of negotiation.
9. “Owner of dwelling” is amended as follows:  
Subsection (3) is deleted.
10. “Program or project” is amended to read:  
The phrase “program” or “project” means any displacing activity or series of activities undertaken by the Department.

ment, related to construction or reconstruction of a transportation facility or a facility necessary for maintaining a transportation facility.

11. "Salvage value" is deleted.
12. "State" is amended to read:  
"State" means a state of the United States or the District of Columbia.
13. "Uneconomic remnant" is deleted.
14. "Uniform Act" is amended to read:  
The term "Uniform Act" refers to A.R.S. §§ 28-7141 through 28-7156.
15. "Unlawful occupancy" is amended to read:  
A person is considered to be in unlawful occupancy if:
  - a. A court of competent jurisdiction has found the person guilty of forcible entry and detainer, or forcible detainer (under A.R.S. §§ 12-1171 through 12-1183) before the initiation of negotiations, or
  - b. The Department determines that the person is occupying the real property without the permission of the owner and has no legal right to occupy the property under state law.
16. "Utility costs" is amended to read:  
The term "utility costs" means expenses for electrical, gas, water, and sewer.
17. "Utility facility" is deleted.
18. "Utility relocation" is deleted.
- B.** 49 CFR 24.5 "Manner of notices" is amended to read:  
Each notice the Agency is required to provide to a property owner or occupant under this part shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.
- C.** 49 CFR 24.9 "Recordkeeping and reports" is amended as follows:
  1. Paragraph (a) Records. The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least five years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the federal funding agency, whichever is later.
  2. Paragraph (c) is deleted.
- D.** 49 CFR 24.10 "Appeals" is amended to read:  
In addition to the provisions of A.R.S. §§ 41-1061 through 41-1067, the following provisions apply:
  1. Actions which may be appealed. A person who believes the Department has failed to determine properly the person's eligibility for or the amount of a relocation payment, may file a written appeal. A person shall include all contested issues in one appeal.
  2. Process. To appeal, a person shall submit a letter stating name and address, and the reasons for disagreeing with the Department's decision to the Right-of-Way Group, Arizona Department of Transportation, 205 S. 17th Ave., MD 612E, Phoenix, AZ 85007-3212.
  3. Time limit. The person shall file the written appeal within 60 days after receiving notice of the Department's determination on the person's claim. The date the appeal request is received begins the official time limit con-

straints, as prescribed in subsections (D)(4) and (D)(8). Filing the appeal does not extend any eligibility periods or a required date to vacate a property.

4. Hearing date. Within 45 days of receiving the appeal request, the Department shall set a mutually acceptable date for a hearing before a hearing officer.
5. Review of files. Upon making a written request to the address in subsection (D)(2), the person may review and copy any non-confidential documentation contained in the Department's files regarding the person's appeal.
6. Scope of review. The Department shall consider and review the person's arguments, statements, and documents in support of the appeal, allowing reasonable latitude for the hearing of relevant material.
7. Right to representation. The person has a right to be represented by legal counsel or other representative in connection with the person's appeal, but solely at the person's own expense.
8. Determination. Within 30 days of the hearing, the hearing officer shall make a recommendation to the Chief Right-of-Way Agent. The Department shall promptly issue a written decision and provide a copy to the person by certified mail. The Department shall explain the basis on which its decision was made, and what relief, if any, is to be provided.
9. If the Department does not grant the relief requested, the Department shall advise the person of the right to seek judicial review.
- E.** Conflict of interest. If a displaced person is an employee of the state, or of a political subdivision involved in a joint project with the displacing agency, the Department shall forward the displaced person's file to the Office of the Attorney General for settlement purposes and decision.
- F.** The Department shall determine whether a person is required to relocate permanently as a direct result of a project.

#### Historical Note

Former Rule, Right of Way Resolution 71-42. Former Section R17-3-13 renumbered without change as Section R17-3-302 (Supp. 88-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

#### **R17-3-303. Relocation Assistance; 49 CFR Part 24, Subpart C – General Relocation Requirements**

- A.** 49 CFR 24.203(b) "Notices of relocation eligibility" is amended to read:  
Notice of relocation eligibility. Eligibility for relocation assistance shall begin on the date of the notice of intent to acquire or notice of eligibility for relocation assistance (defined in Sec. 24.2) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.
- B.** 49 CFR 24.205 "Relocation planning, advisory services, and coordination" is amended as follows:
  1. Paragraph (a) is amended to read:  
Relocation planning. During the early stages of development, federal and federal-aid programs or projects will be planned in a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. The planning, appropriate to the scope, complexity, and scheduling shall precede any action by an Agency which will cause displacement. The

planning should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. If timing or scheduling is restricted, the planning may be limited. Planning may involve a relocation survey or study which may include the following:

2. Paragraph (b) is deleted.
- C. 49 CFR 24.206 is amended to read:
  1. Eviction for cause must conform to A.R.S. §§ 12-1171 through 12-1183. The Department may determine that a person who is an unlawful occupant (as defined in 49 CFR 24.2) is still eligible for advisory relocation assistance, using the following factors:
    - a. The person received an eviction notice before the initiation of negotiations and, as a result of that notice is later evicted;
    - b. The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement;
    - c. The eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part;
    - d. The person occupying the property and the owner dispute the issue of lawful occupancy;
    - e. The duration of prior legal occupancy of the person occupying the property;
    - f. Financial or medical hardship of the person occupying the property; or
    - g. The cost of the relocation assistance is less than the cost of an appeal.
  2. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available.
  3. The state may initiate eviction proceedings due to:
    - a. Unlawful activities being conducted on state-owned property,
    - b. Willful destruction of state-owned property,
    - c. Refusal to vacate state-owned property after all required notices to vacate have been delivered and appropriate assistance provided, or
    - d. Failure to pay rent when there is no hardship.

#### Historical Note

Former Rule, Right of Way Resolution 71-69. Former Section R17-3-14 renumbered without change as Section R17-3-303 (Supp. 88-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

#### **R17-3-304. Relocation Assistance; 49 CFR Part 24, Subpart D – Payments for Moving and Related Expenses**

- A. 49 CFR 24.301 “Payment for actual reasonable moving and related expenses-residential moves” is amended as follows.
  1. Paragraph (d) is amended to read:
 

Storage, if necessary to accommodate the Department’s project schedule, for a period not to exceed 12 months.
  2. Paragraph (f) is deleted.
- B. 49 CFR 24.303 “Payments for actual reasonable moving and related expenses-nonresidential moves” is amended as follows.
  1. Paragraphs (a)(7) and (a)(13)(iv) are deleted.
  2. Paragraph (a)(8) is amended to read:
 

Professional services necessary for:

- i. Planning the move of the personal property, when the Department approves in advance the quantity and type of planning,
- ii. Moving the personal property, and
- iii. Installing the relocated personal property at the replacement location.

3. Paragraph (a)(10)(i) is amended to read:

The market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that the effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling price.); or

4. Paragraph (c) is amended to read:

Self-moves. If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the person’s moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency. At the Agency’s discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate. The Agency has sole authority to determine, in the best interests of the Agency and the displaced business or farm operation, if a self-move will be permitted.

5. Paragraph (e) is amended to read:

Advertising signs. The amount of a payment for direct loss of an on-premise advertising sign which is personal property shall be the lesser of:

- a. (1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or
- b. (2) The estimated cost of moving the sign, but with no allowance for storage.

- C. 49 CFR 24.305(h) for “Ineligible moving and related expenses” is amended to read:

Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency, except as required under A.R.S. § 28-7153.

#### Historical Note

Former Rule, Right of Way Resolution 70-51. Former Section R17-3-11 renumbered without change as Section R17-3-304 (Supp. 88-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

#### **R17-3-305. Relocation Assistance; 49 CFR Part 24, Subpart E – Replacement Housing Payments**

- A. 49 CFR 24.401 “Replacement housing payment for 180-day homeowner-occupants” is amended as follows.
  1. Paragraph (c)(4)(iii) is amended to read:
 

The current market value for residential use of the replacement site (see Appendix A of this part, Sec. 24.401(c)(4)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
  2. Paragraph (d)(3) is amended to read:
 

The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located. If a

displaced person chooses to buy down the interest rate, the Agency shall:

- a. Require documents indicating the initial interest rate,
- b. Require documents indicating the final interest rate, and
- c. Limit reimbursement to the lower of the amount the displaced person actually paid or the amount qualified under the established market interest rate.

3. Paragraph (e)(1) is amended to read:  
Closing and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.
4. Paragraphs (e)(7) and (e)(8) are deleted.

- B.** 49 CFR 24.402 “Replacement housing payment for 90-day occupants” is amended as follows.

1. Paragraph (b)(2)(i) is amended to read:  
The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency. (For an owner-occupant, use the market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the market rent, unless its use would result in a hardship because of the person’s income or other circumstances); or
2. Paragraph (c)(1) is amended to read:  
Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a down-payment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling.

- C.** 49 CFR 24.403 “Additional rules governing replacement housing payments” is amended as follows.

1. Paragraph (a)(1) is amended to read:  
At least one comparable replacement dwelling shall be examined. If more than one dwelling is examined, then the payment shall be computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also Sec. 24.205(a)(2) and Appendix A of this part). An obviously overpriced dwelling will be ignored.
2. Paragraph (a)(3) is amended to read:  
If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.
3. Paragraph (c)(6) is amended to read:  
Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current market value.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

**R17-3-306. Relocation Assistance; Appendix A to Part 24 – Additional Information**

- A.** Appendix A, Section 24.9 “Recordkeeping and Reports” is deleted.
- B.** Appendix A, Subpart B – “Real Property Acquisition” is deleted.

- C.** Appendix A, Section 24.204(a) “General” is amended to read:

This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, Sec. 24.204(a) requires that, “Where possible, three or more comparable replacement dwellings shall be made available.” Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

- D.** Appendix A, Section 24.307 “Discretionary Utility Relocation Payments” is deleted.

- E.** Appendix A, Section 24.401(c) “Price differential” is amended to read:

The provision in Sec. 24.401(c)(4)(iii) to use the current market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the market value may be used.

- F.** Appendix A, Section 24.402 “Replacement Housing Payment for 90-Day Occupants” is deleted.

- G.** Appendix A, Section 24.403 “Additional Rules Governing Replacement Housing Payments” Section 24.403(a)(1) is amended to read:

The procedure for adjusting the asking price of comparable replacement dwellings requires that the agency provide advisory assistance to the displaced person concerning negotiations so that he or she may enter the market as a knowledgeable buyer. If a displaced person elects to buy the selected comparable, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment to the actual purchase amount.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1075, effective May 6, 2003 (Supp. 03-1).

**ARTICLE 4. REPEALED**

**R17-3-401. Repealed**

**Historical Note**

Former Rule, Traffic Engineering Resolution; Repealed effective June 18, 1979 (Supp. 79-3). New Section R17-3-05 adopted effective August 4, 1982 (Supp. 82-4). Former Section R17-3-05 renumbered without change as Section R17-3-401 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 2750, effective June 7, 2001 (Supp. 01-2).

**R17-3-402. Repealed**

**Historical Note**

Former Rule, ASHC Resolution. Repealed effective January 3, 1977 (Supp. 77-1). New Section R17-3-08 adopted effective March 25, 1982 (Supp. 82-2). Former Section R17-3-08 renumbered without change as Section R17-3-402 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 2748, effective June 7, 2001 (Supp. 01-2).

**R17-3-403. Recodified**

**Historical Note**

Former Rule, Right of Way Resolution 71-15. Former Section R17-3-09 renumbered without change as Section R17-3-403 (Supp. 88-4). Section recodified to A.A.C. R17-4-428 at 7 A.A.R. 1260, effective February 20, 2001 (Supp. 01-1).

**R17-3-404. Repealed****Historical Note**

Adopted as an emergency effective April 13, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-2). Former Section R17-3-20 renumbered without change as Section R17-3-404 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 2750, effective June 7, 2001 (Supp. 01-2).

**R17-3-405. Reserved****R17-3-406. Repealed****Historical Note**

Former Rule, Traffic Engineering Report. Former Section R17-3-02 renumbered without change as Section R17-3-406 (Supp. 88-4). Section repealed by final rulemaking at 8 A.A.R. 849, effective February 8, 2002 (Supp. 02-1).

**R17-3-407. Repealed****Historical Note**

Former Rule, ASHC Resolution; Former Section R17-3-06 repealed, new Section R17-3-06 adopted effective April 25, 1978 (Supp. 78-2). Former Section R17-3-06 renumbered without change as Section R17-3-407 (Supp. 88-4). Section repealed by final rulemaking at 8 A.A.R. 849, effective February 8, 2002 (Supp. 02-1).

**R17-3-408. Repealed****Historical Note**

Former Rule, General Order 21. Former Section R17-3-08 renumbered without change as Section R17-3-408 (Supp. 88-4). Section repealed by final rulemaking at 8 A.A.R. 849, effective February 8, 2002 (Supp. 02-1).

## **ARTICLE 5. HIGHWAY ENCROACHMENTS AND PERMITS**

**R17-3-501. Definitions**

In this Article, unless otherwise defined, these terms have the following meanings:

“Abutting property” means real property or interest in real property bordering a state highway right-of-way.

“Adopt-a-highway” means a Department program that allows a group of persons access to a state highway right-of-way to conduct litter pickup on a designated portion of the state highway.

“Airspace” means the space above real property.

“Applicant” means a person or entity seeking to obtain an encroachment permit.

“Department” means the Arizona Department of Transportation.

“District Office” means one of the Department’s Engineering and Maintenance district offices.

“Encroachment” means any use of, intrusion upon, or construction of improvement within a state highway right-of-way by any person or entity other than the Department for any purpose, temporary or fixed, other than public travel authorized by state statute.

“Encroachment owner” means the person or entity responsible for creating or maintaining an encroachment on a state highway right-of-way.

“Encroachment permit” means a written approval granted by the Department for construction of a fixed or temporary improvement within a state highway right-of-way, or for any activity requiring the temporary use of or intrusion upon a state highway right-of-way.

“Engineering stationing” means the Department identification system to identify the location of a state highway feature.

“Improvement” means any constructed facility or object, or alteration to any existing physical facility or object, or change in the elevation, slope, or drainage of a state highway right-of-way.

“Permittee” means a person or entity to whom the Department issues an encroachment permit, and who is responsible for meeting the obligations, responsibilities, and specifications stated in the encroachment permit.

“Right-of-way” means the real property or interest in real property on which state transportation facilities and appurtenances to the facilities are constructed or maintained.

“Special event” means any temporary organized or supervised activity that could affect the normal operation of a state highway.

“State highway” has the meaning prescribed in A.R.S. § 28-101(47).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

**R17-3-502. Applicability**

- A.** A person or entity shall not encroach on a state highway right-of-way without obtaining an encroachment permit.
- B.** Only the following types of encroachments qualify for a Department encroachment permit:
  1. Access improvements to abutting properties, consistent with subsection (C)(6);
  2. Utility construction and maintenance, including underground and overhead;
  3. Drainage improvements;
  4. Airspace encroachments, such as overhanging signs, awnings, and banners;
  5. Landscaping;
  6. Special events;
  7. Removing or improving an existing encroachment;
  8. Rest area coffee breaks;
  9. Change in the principal activity or function of an abutting property where an access or utility encroachment has been constructed;
  10. Adopt-a-highway;
  11. Activities, such as surveying, performed to compile information about physical features in the highway right-of-way;
  12. Traffic control unrelated to the types of encroachments listed above for specific incidents, such as hazardous material removal, accident clean-up, or check points by government enforcement; and
  13. For such uses as the Director specifies.
- C.** An encroachment not listed under subsection (B) is ineligible to qualify for an encroachment permit and is an unauthorized encroachment. An unauthorized encroachment also includes:
  1. Outdoor advertising signs, except as an overhang in subsection (B)(4);
  2. Parking areas;
  3. Sales of any service or thing;
  4. Bicycling, walking, horseback riding, or other activities prohibited under A.R.S. § 28-733;
  5. Any commercial or industrial activity; or
  6. Access to undeveloped property abutting a state highway, unless the applicant demonstrates a plan for:
    - a. Immediate development of the property evidenced by construction plans or building permits, or
    - b. Continuing maintenance of the undeveloped property.



- D.** A new owner of an existing permitted encroachment shall apply for an encroachment permit in the new owner's name within 30 days from the date of purchase of the abutting real property.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

#### **R17-3-503. Who Can Apply for an Encroachment Permit**

- A.** Any person or entity, other than the Department, seeking an encroachment upon a state highway right-of-way shall apply to the Department for an encroachment permit.
- B.** Any person or entity is eligible to apply for an encroachment permit, except for an encroachment involving:
1. Access, only an abutting property owner is eligible to apply.
  2. Landscaping and aesthetic enhancements, only an abutting property owner or a political subdivision is eligible to apply.
  3. Utility installation, only an ultimate owner who will be responsible for maintenance and liability of the utility after it is put into service is eligible to apply. An ultimate owner includes a utility company, improvement district, political subdivision, or abutting property owner. A contractor or developer may apply if the contractor or developer provides evidence that an ultimate owner has approved plans and agrees to obtain an encroachment permit as a new owner upon completion of the utility installation.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

#### **R17-3-504. General Application Procedures**

- A.** An applicant shall obtain an encroachment permit application form from the District Office serving the Department's district in which the proposed encroachment will be located.
- B.** An applicant shall include the following information on a District Office's encroachment permit application:
1. Name, address, city, state, zip code, telephone number, and signature of proposed encroachment owner;
  2. Name, address, city, state, zip code, telephone number, and signature of applicant, if different from proposed encroachment owner;
  3. Applicant's legal relationship to proposed encroachment owner;
  4. City nearest to the proposed encroachment;
  5. Location of proposed encroachment from the nearest milepost (in feet), including state highway route number, side of highway, and engineering stationing (if applicable); and
  6. Purpose of proposed encroachment, as listed in R17-3-502(B), and a description of the proposed work or activity in the right-of-way.
- C.** By signing an application, an applicant or proposed encroachment owner, or both, agree to accept the following general obligations and responsibilities:
1. Assume all legal liability and financial responsibility for the encroachment activity for the duration of the permit;
  2. Be responsible for any repair or maintenance work to the encroachment for the duration of the permit;
  3. Comply with the Department's traffic control standards;
  4. Obtain written approval from the abutting property owner if the encroachment encroaches on abutting property;

5. Upon notice from the Department, repair any aspect or condition of the encroachment that causes danger or hazard to the traveling public;
6. Remove the encroachment and restore the right-of-way to its original or better condition if the Department cancels the encroachment permit, and terminates all rights under the permit;
7. Reimburse the Department for costs incurred or deposit with the Department money necessary to cover all costs incurred for activities related to the encroachment, such as inspections, restoring the right-of-way to its original or better condition, or removing the encroachment;
8. Notify a new owner to apply for an encroachment permit, as required by R17-3-502(D);
9. Apply for a new encroachment permit if the use of the permitted encroachment changes;
10. Keep a copy of the encroachment permit at the work site or site of encroachment activity;
11. Construct the encroachment according to plans that the Department approves as part of the final permit;
12. Obtain required permits from other government agencies or political subdivisions;
13. Remove any defective materials, or materials that fail to pass the Department's final inspection, and replace with materials the Department specifies.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

#### **R17-3-505. Supporting Documentation**

An applicant for an encroachment permit shall provide supporting documentation relevant to the type of encroachment activity and necessary to allow the Department to analyze the proposed encroachment's impact on the state highway and right-of-way, using such criteria as:

1. Whether the proposed encroachment is for commercial or residential access;
2. The proposed encroachment's impact on roadway features within the right-of-way;
3. The amount of traffic the proposed encroachment will generate;
4. Duration of the proposed encroachment;
5. The proposed encroachment's potential to disrupt traffic or change traffic patterns;
6. The surrounding terrain and physical features of the right-of-way and the abutting property; and
7. The number, size, and intended use of any buildings that would be accessed via the proposed encroachment.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

#### **R17-3-506. Encroachment Permit Requirements**

- A.** An encroachment permit consists of the materials submitted by an applicant under R17-3-504 and R17-3-505, and additional requirements from the Department as described in subsection (B). An encroachment permit will list in detail the requirements with which the permittee shall comply in order to perform the requested encroaching activity. Some of the requirements are general and apply to every encroachment permit. Others are specific to a particular encroachment activity.
- B.** The Department shall set encroachment permit requirements to:
1. Maintain the integrity of the Department's right-of-way and transportation facilities;

2. Mitigate the risk to traffic safety;
  3. Improve traffic movement, efficiency, and capacity;
  4. Mitigate adverse drainage on state property or abutting property affecting state property;
  5. Mitigate environmental impacts;
  6. Mitigate maintenance costs to transportation facilities;
  7. Mitigate potential liability for the Department or the state; and
  8. Mitigate potential harms to national or state security.
- C.** By accepting an encroachment permit, a permittee agrees to the requirements described in the permit. If the permittee disagrees with the requirements, the permittee shall return the permit immediately to the District Office.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
5202, effective February 5, 2005 (Supp. 04-4).

**R17-3-507. Review Procedures**

- A.** The Department shall conduct an administrative completeness review and substantive review of an application for an encroachment permit under A.R.S. §§ 41-1072 through 41-1077 and A.A.C. R17-1-102.
- B.** The Department shall decide whether to grant an encroachment permit based solely on the documents and information before the Department.
- C.** Decision.
1. The Department shall approve an encroachment permit if:
    - a. The proposed encroachment use is lawful,
    - b. The applicant provides complete and accurate information,
    - c. The proposed encroachment use qualifies under R17-3-502(B), and
    - d. The applicant agrees to comply with the Department's requirements as set out in the permit.
  2. The Department shall deny an encroachment permit application if:
    - a. The proposed encroachment use is unlawful,
    - b. The applicant provides incomplete or inaccurate information,
    - c. The proposed encroachment use does not qualify under R17-3-502(B), or
    - d. The permittee disagrees with the requirements in the permit.
  3. An applicant may appeal the Department's denial decision on an encroachment permit application as prescribed in R17-3-509.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
5202, effective February 5, 2005 (Supp. 04-4).

**R17-3-508. Unauthorized Encroachments; Enforcement Actions**

- A.** An encroachment is unauthorized if:
1. A permittee fails to comply with the permit requirements,
  2. A permittee provides false or inaccurate information on the encroachment permit application,
  3. A person or entity fails to obtain an encroachment permit, or
  4. The encroachment is unauthorized under R17-3-502(C).
- B.** An encroachment owner shall remove any unauthorized encroachment at the owner's own cost.
- C.** After considering the totality of the circumstances and in consultation with the Office of the Attorney General, the Department may refer a matter to the Office of the Attorney General according to A.R.S. §§ 28-7053 and 28-7054 for:

1. Enforcement against the owner of an unauthorized encroachment, or
2. Recovery of costs from the encroachment owner for the Department removing an unauthorized encroachment if the encroachment owner fails to remove the unauthorized encroachment.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
5202, effective February 5, 2005 (Supp. 04-4).

**R17-3-509. Hearings**

The Department shall inform an applicant or permittee of the hearing procedures when the Department:

1. Denies an application for an encroachment permit, or
2. Determines that an encroachment is unauthorized.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.  
5202, effective February 5, 2005 (Supp. 04-4).

**ARTICLE 6. RESERVED****ARTICLE 7. HIGHWAY BEAUTIFICATION****R17-3-701. Outdoor Advertising Control**

- A.** Purpose. The purpose of this subsection is to present the definitions of specialized terms used in describing outdoor advertising signs and matters relating to outdoor advertising signs. Terms used in this rule are defined as follows:

1. "Abandoned sign" means a sign for which neither the sign owner nor the landowner claim any responsibility.
2. "Back-to-back sign" means a sign that carries faces attached on each side of the structure and is read from opposite directions.
3. "Directional" means signs containing directional information about public places owned or operated by federal, state, or local government or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, religious, and rural activity sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
4. "Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
5. "Double-faced sign" means a sign that has two faces facing in the same direction.
6. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish.
7. "Face" means the surface of an outdoor advertising structure on which the design is posted or painted, usually made of galvanized metal sheets, fiberboard, plywood or plastic.
8. "Federal or state law" means a federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state or federal agency or a political subdivision of a state pursuant to a federal or state constitution or statute.
9. "Illegal sign" means a sign that was erected or maintained, or both, in violation of the state law.
10. "Intended to be read from the main-traveled way" is defined by any of the following criteria:
  - a. More than 80% of the average daily traffic (as determined by traffic counts) viewing the outdoor advertising is traveling in either or both directions along the main-traveled way.

- b. Message content is of such a nature that it would be only of interest for the traffic using the main-traveled way.
- c. The sales value of the outdoor advertising is directly attributable to advertising circulation generated by traffic along the main-traveled way.
- 11. “Interchange” means a junction of two or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams.
- 12. “Landmark sign” means a sign of historic or artistic significance that existed on October 22, 1965, which may be preserved or maintained as determined by the Director and approved by the Secretary of Transportation.
- 13. “Lease” means an agreement, oral or in writing, by which possession or use of land or interests in land is given by the owner to another person for a specified period of time.
- 14. “Maintain” means to allow to exist, including such activities necessary to keep the sign in good repair, safe condition, and change of copy.
- 15. “Nonconforming sign” means a sign that was lawfully erected but does not comply with the provisions of state law or state laws passed at a later date or later fails to comply with state law or state regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.
- 16. “Normal maintenance (nonconforming sign)” means the maintenance customary to keep a sign in ordinary repair, upkeep or refurbishing. The maintenance does not include:
  - a. Maintenance that exceeds 50% of the appraised value using current appraisal schedules for a sign, or
  - b. Repairs to a sign damaged to such an extent that 60% or more of the uprights require replacement for wood uprights, or 30% or more of the length of each upright support above ground requires replacement for metal uprights.
- 17. “Obsolete sign” means a directional or other official sign the purpose of which is no longer pertinent.
- 18. “Official signs and notices” means signs and notices, other than traffic regulatory signs and notices, erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies are official signs.
- 19. “Off-premise sign” means an outdoor advertising sign that advertises an activity, service or product and that is located on premises other than the premises at which the activity or service occurs or the product is sold or manufactured.
- 20. “On-premise sign” means any sign that meets the following requirements (such signs are not controlled by state statutes):
  - a. Premises. The sign must be located on the same premises as the activity or property advertised.
  - b. Purpose. The sign must have as its purpose:
    - i. The identification of the activity, or its products or services, or
    - ii. The sale or lease of the property on which the sign is located, rather than the purpose of general advertising.
- c. In the case of an on-premise sign advertising an activity, the premises must include all actual land used or occupied for the activity, including its buildings, parking, storage and service areas, streets, driveways and established front, rear, and side yards constituting an integral part of such activity, provided the sign is located on property under the same ownership or lease as the activity. Uses of land that serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes are not premises. Generally these will be inexpensive facilities, such as picnic grounds, playgrounds, walking paths, or fences.
- 21. “Parkland” means any publicly owned land that is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
- 22. “Public service signs” means signs that are located on school bus stop shelters and that:
  - a. Identify the donor, sponsor, or contribution of the shelters;
  - b. Contain safety slogans or messages, which must occupy not less than 60% of the area of the sign;
  - c. Contain no other message;
  - d. Are located on school bus shelters that are authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and
  - e. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.
- 23. “Public utility signs” means warning markers that are customarily erected and maintained by publicly or privately owned public utilities to protect their facilities.
- 24. “Re-erection” means the placing of any sign in a vertical position subsequent to its initial erection. Re-erection shall only occur in the event the sign has been damaged by tortious acts, or in the course of normal maintenance.
- 25. “Scenic area” means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction of the area, and includes interests in land that have been acquired for the restoration, preservation, and enhancement of scenic beauty.
- 26. “Scenic overlook or rest area” means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.
- 27. “Service club and religious notices” means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious service, that do not exceed eight square feet in area.
- 28. “V-type signs” means signs that are oriented at an angle to each other, the nearest points of which are not more than 10 feet apart.
- 29. “Within the view of and directed at the main-traveled way” means any sign that is readable from the main-traveled way for more than five seconds traveling at the posted speed limit or for such a time as the whole message can be read, whichever is less.
- B. Outdoor advertising permit application procedure.**
  - 1. Purpose. The purpose of this subsection is to present the procedures to be followed by applicants in requesting permits for the erection of outdoor advertising facilities.
  - 2. Permit form and fee required. Each application for a permit to erect an outdoor advertising facility must be made

- on the appropriate Arizona Department of Transportation form and shall be accompanied by a check or money order in the amount of \$20.00 payable to the Arizona Department of Transportation.
- a. The initial application fee shall be valid for a period of one year from date of issuance. It shall be renewable annually upon payment of a \$5.00 fee.
  - b. Renewal fees will become delinquent 30 days after the annual renewal date. On becoming delinquent, such sign structures will be in violation and a new initial application fee of \$20.00 will be required.
3. Applications mailed to maintenance permit engineer. Applications for outdoor advertising permits should be mailed to: Arizona Department of Transportation, Intermodal Transportation Division; 206 South 17th Avenue; Phoenix, Arizona 85007; Attention: Maintenance Permits Section. Assistance to applicants is available at District offices.
  4. Separate application for each sign. Each outdoor advertising sign, display or device requires a separate application with fee. All required information describing the location of the sign, the sign qualification standards, and the permitted area identification shall be completely entered on the permit form.
  5. Legal description of sign site required. Applicants shall be required to obtain a certification from the governing zoning authority certifying that the zoning is correct for the legal description of the proposed sign location. In cases where the legal description is listed incorrectly on the application, a new certification must be obtained for the correct legal description. Legal descriptions shall adequately describe the property for which the application is made.
  6. Location diagram required. Applicants shall submit a location diagram indicating highway route number and such physical features as: buildings, bridges, culverts, poles, mileposts and other stationary land marks necessary to adequately describe the location. The sketch will also indicate the distance in feet the sign is to be erected from the nearest milepost or a street intersection and other off-premise signs in the same vicinity.
  7. Applicants must mark site locations. Applicants are required to place an identifiable device or object bearing applicant's name at the proposed sign location to aid field inspectors in site evaluations.
  8. Landowner's permission mandatory. Applicants shall be required to obtain a signed certification stating that the applicant has the permission of the landowner to erect the sign at the noted legal description, or in lieu of the signed certification, furnish a copy of an executed lease.
  9. Each pending application field checked. Each pending application will be field checked for compliance with the state act and regulations by the district. The findings of the field check will be forwarded to the Maintenance Permit Engineer, Maintenance Section, for final examination and, if approved, permit issuance.
  10. Noncompliance. Each application for a permit to erect an outdoor advertising facility which does not comply with all requirements of the law and the Arizona Department of Transportation regulations, will be denied and the application fee may be retained by the state. Exception will be made in cases where applicants did not have knowledge of previous applications or permits for the same site. An additional \$20.00 fee shall be added to the regular permit fee for signs illegally erected prior to the issuance of a permit.
  11. Permit decals on sign structures. Applicants shall affix permit decals on a permanent surface near the portion of the sign structure closest to the main-traveled way and clearly visible from the roadway. Permit decals to replace any which have been issued and were improperly affixed, lost or destroyed, whether before or after attaching to the sign structure, may be purchased at a cost of \$5.00. Signs bearing permit decals for signs other than the sign for which they were issued shall be in violation.
  12. Forfeiture of permit fee. Outdoor advertising facilities for which permits have been issued shall be erected within 120 days and shall bear the official permit identification issued for the specific facility. If the applicant mails a written request for extension of time prior to expiration of the 120 days, an additional 60-day extension may be granted. Any permit canceled because no sign was erected within the prescribed time will result in forfeiture of the \$20.00 fee.
  13. Denial of permit renewals. An existing permit will not be renewed for an approved location on which no sign structure exists.
  14. Removal and re-erection time limits. If an outdoor advertising sign is removed from a permitted location for any reason, the permit shall expire within 30 days from date of removal, except that the permittee may notify the Arizona Department of Transportation, Intermodal Transportation Division; Maintenance Permits Section, of intent to re-erect which will allow 120 days for re-erection. Failure to re-erect which will allow 120 days for re-erection. Failure to re-erect within the 120 days allowed will cancel the existing permit.
  15. Transfer of permits. Permits are transferable upon sale of sign provided a new owner furnishes the Arizona Department of Transportation with notification of sale within 30 days after date of sale.
  16. Calendar days. All references to days made in this permit application procedure, as well as those references in all rules and regulations applying to outdoor advertising control, shall mean calendar days.
- C. Administrative rules.
1. Purpose. The purpose of this subsection is to present administrative rules developed by the Arizona Department of Transportation for control of outdoor advertising.
  2. Restrictions on rights-of-way use. No sign shall be erected or maintained from or by use of interstate highway rights-of-way. Any observed action of this type will result in cancellation of the permit. Signs may be erected and maintained from primary and secondary highways only if no other access is available and an encroachment permit is issued.
  3. Nonconforming signs shall be in violation if:
    - a. A sign is enlarged (increased in any dimensions of the sign face or structural support),
    - b. A sign is replaced (an existing sign is removed and replaced with a completely different sign),
    - c. A sign is rebuilt to a different configuration or material composition beyond normal maintenance,
    - d. A sign is relocated (moved to a new position or location without being lawfully permitted), or
    - e. A sign which was previously non-illuminated has lighting added.
  4. Commercial or industrial activities. Commercial or industrial activities which define a business area, or an unzoned commercial or industrial area must be in operation at the time the permit application is made. Should any commercial or industrial activity, which has been

- used in defining or delineating a business area, or an unzoned commercial or industrial area, cease to operate for a period of six continuous months, any signs qualified by such activity shall become nonconforming.
5. On premise. Should any activity which has been used in defining an on-premise sign cease to operate for a period of six continuous months any signs qualified by that activity shall be considered as off premise and will require appropriate permits. If the signs are then not permissible they will be in violation.
  6. Municipal limit between signs. When a municipal limit falls between signs the spacing requirement shall be 300 feet between signs on primary or secondary highways.
  7. Proposed interstate alignment locations. Signs existing or to be erected on primary or secondary highway systems which have been declared by the Director of Transportation as an interstate freeway alignment prior to construction of such interstate or freeway shall be classified as though the Interstate or Freeway already exists, requiring spacing criteria for Interstate or other freeways.
  8. Double-faced, back-to-back, and V-type signs. Double-faced, back-to-back and V-type sign structure permits will be limited to a single sign ownership for each site. No more than two faces will be allowed facing each direction of travel. Double-faced signs shall not exceed 350 square feet per face. V-type signs will be limited to a 10' spacing between faces at the apex. V-type sign spacing from other signs shall be measured from the middle of the apex.
  9. Multifaced community signs. Local chambers of commerce may obtain permits to erect signs with more than two faces. These signs shall not exceed 1,200 square feet in area with a maximum overall vertical facing of 25 feet and a maximum overall horizontal facing of 60 feet, including border and trim, and excluding base or apron supports and other structural members. All other laws, rules and regulations will apply to multifaced community signs as to other off premise signs.
  10. New sign making existing sign nonconforming. If a new sign which would otherwise be conforming will make an existing sign nonconforming, the new sign shall not be allowed.
  11. Hearing requests. The land owner or sign owner may request a hearing in connection with a permit application denied or other action taken by the Arizona Department of Transportation in connection with the rules prescribed in this Section. Within seven days after notice of the action is mailed or posted, the land owner or sign owner may make written request for a hearing on the action. The Director of the Department of Transportation shall designate a hearing officer, who shall be an administrative employee of the Department of Transportation, to conduct and preside at the hearings. When a hearing is requested, the hearing shall be held within 30 days after the request, and the party requesting the hearing shall be given at least five days notice of the time of the hearing. All hearings shall be conducted at Department of Transportation administrative offices. A full and complete record and transcript of the hearing shall be taken. The presiding officer shall within 10 days after the hearing make a written determination of the presiding officer's findings of fact, conclusions and decision and shall mail a copy of the same, by certified mail, to the owner or the party who requested the hearing.
  12. Landmark signs. The Director will submit a one-time declaration listing all landmark signs to the Secretary of Transportation. The preservation of these signs would be consistent with the purposes of state highway beautification laws.
  13. Blanked out or discontinued nonconforming signs. When an existing nonconforming sign ceases to display advertising matter for a period of one year the use of the structure as a nonconforming outdoor advertising sign is terminated.
  14. Vandalized signs. Legal nonconforming signs may be rebuilt to their original configuration and size when they are destroyed due to vandalism and other criminal or tortious acts.
- D. Standards for directional and other official signs.**
1. Purpose. The purpose of this subsection is to present standards applicable to directional and other official signs.
  2. Scope and application. The standards presented in this Chapter apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the interstate, federal-aid primary and secondary highway systems and which are visible from the main-traveled way of the systems. These types of signs must conform to national standards, promulgated by the Secretary of Transportation under authority set forth in 23 U.S.C. 131(c). These standards do not apply, however, to directional and other official signs erected on the highway right-of-way.
  3. Standards for directional signs. The following apply only to directional signs:
    - a. General. The following signs are prohibited:
      - i. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.
      - ii. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
      - iii. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
      - iv. Obsolete signs.
      - v. Signs which are structurally unsafe or in disrepair.
      - vi. Signs which move or have any animated or moving parts.
      - vii. Signs located in rest areas, parklands or scenic areas.
    - b. Size. No sign shall exceed the following limits, which include border and trim, but exclude supports.
      - i. Maximum area -- 150 square feet.
      - ii. Maximum height -- 20 feet.
      - iii. Maximum length -- 20 feet.
    - c. Lighting. Signs may be illuminated, subject to the following:
      - i. Signs which contain, include, or are illuminated by any flashing, intermittent or moving light or lights are prohibited.
      - ii. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any

- driver's operation of a motor vehicle are prohibited.
- iii. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.
  - d. Spacing.
    - i. Each location of a directional sign must be approved by the Arizona Department of Transportation.
    - ii. No directional sign may be located within 2,000 feet of an interstate, or intersection at grade along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).
    - iii. No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.
      - (1) No two directional signs facing the same direction of travel shall be spaced less than one mile apart;
      - (2) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;
      - (3) Directional signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and
      - (4) Directional signs located adjacent to the Primary System shall be within 50 air miles of the activity.
      - (5) No directional signs shall be located within 500 feet of an off-premise outdoor advertising sign on any state highway.
  - e. Message content. The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit number. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.
  - f. Selection methods and criteria for privately owned activities or attractions to obtain directional sign approval.
    - i. Privately owned activities are attractions eligible for directional signing are limited to the following categories:
      - (1) Natural phenomena,
      - (2) Scenic attractions,
      - (3) Historic sites,
      - (4) Educational sites,
      - (5) Cultural sites,
      - (6) Scientific sites,
      - (7) Religious sites, and
      - (8) Outdoor recreational areas.
    - ii. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.
    - iii. The Director, Arizona Department of Transportation, will appoint a Selection Board for Directional Signing Qualifications consisting of three administrative or professional employees of the Department of Transportation, one of whom shall be designated as chairperson, to judge and approve the qualifications for directional signing of privately owned activities or attractions as limited to the categories in subsection (D)(3)(f)(i) and the qualification in subsection (D)(3)(f)(ii).
  - iv. Applicants for directional signs involving privately owned activities or attractions, shall first qualify the activity or attraction by submitting an official qualification form to the attention of the maintenance permit engineer, highways division, Arizona Department of Transportation. The maintenance permit engineer will forward the application for qualification, along with any technical data which may assist the selection board in making the selection board's determination, to the selection board.
  - v. Applicant shall indicate one or more categories (as listed in subsection (D)(3)(f)(i) that is applicable to the activity or attraction for which qualification is sought. Applicants shall submit a statement and supporting evidence that the activity or attraction is nationally or regionally known and is of outstanding interest to the traveling public.
  - vi. The selection board will, upon approval or rejection of an application, give notification of the selection board's determination in writing, to the applicant and to the maintenance permit engineer.
  - vii. The maintenance permit engineer will not issue any permits for directional signs for any privately owned activity or attraction until receipt of qualification approval by the selection board. All directional sign permits issued for the Department of Transportation by the maintenance permit engineer will meet the standards for directional and other official signs as incorporated in the "Rules and Regulations for Outdoor Advertising along Arizona Highways" approved and issued by the Director, Arizona Department of Transportation.
  - g. Rural activity signs are intended to give directions to rural activity sites located along rural roads connecting to state highways. The signs must be located in areas primarily rural in nature. Rural activities that may qualify include ranches, recreational areas and mines. Signs for private residences, subdivisions, and commercial activities are not permitted. Industrial activities that are located in primarily rural areas such as mines or material pits may be allowed. The signs shall not be located in business areas, unzoned commercial or industrial areas, or within municipal limits. The selection board may make final determination of eligibility for those signs when necessary. Not more than one sign pertaining to a rural activity facing the same direction of travel may be erected along a single route approaching the rural connecting road. Signs will be limited to 10 square feet in area. All other standards for directional signs shall apply.
  - h. No application fee is required for official signs and notices, public utility signs, service club and religious notices, public service signs or directional signs erected by federal, state or local governments.

Other directional signs require a permit application and \$20.00 fee.

**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R17-3-711 renumbered without change as Section R17-3-701 (Supp. 88-4). Amended by final rulemaking at 18 A.A.R. 2347, effective November 10, 2012 (Supp. 12-3).

**Exhibit 1. Expired**

**Historical Note**

Exhibit 1 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 2. Expired**

**Historical Note**

Exhibit 2 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 3. Expired**

**Historical Note**

Exhibit 3 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 4. Expired**

**Historical Note**

Exhibit 4 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 5. Expired**

**Historical Note**

Exhibit 5 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 6. Expired**

**Historical Note**

Exhibit 6 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 7. Expired**

**Historical Note**

Exhibit 7 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 8. Expired**

**Historical Note**

Exhibit 8 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**Exhibit 9. Expired**

**Historical Note**

Exhibit 9 expired under A.R.S. § 41-1056(E) at 15 A.A.R. 2104, effective October 1, 2009 (Supp. 09-4).

**R17-3-701.01. Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits**

- A.** Outdoor advertising shall not be erected under A.R.S. § 28-2102(A)(4) or (5) in a zoned area:
1. Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or
  2. In which limited commercial or industrial activities are permitted as an incident to other primary land uses.
- B.** A permit for outdoor advertising shall not be issued under A.R.S. § 28-2106(4) in a zoned area:

1. Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or
2. In which limited commercial or industrial activities are permitted as an incident to other primary land uses.

**Historical Note**

Emergency rule adopted effective May 17, 1994, pursuant to A.R.S. § 41-1026, valid for 90 days (Supp. 94-2). Permanently adopted without change effective August 12, 1994 (Supp. 94-3).

**R17-3-702. Repealed**

**Historical Note**

Adopted effective September 9, 1977 (Supp. 77-5). Amended effective May 11, 1981 (Supp. 81-3). Former Section R17-3-712 renumbered without change as Section R17-3-702 (Supp. 88-4). Section R17-3-702 and Exhibits 1-9 repealed by final rulemaking at 10 A.A.R. 5202, effective February 5, 2005 (Supp. 04-4).

**R17-3-703. Arizona Junkyard Control**

- A.** Purpose. The purpose of this Section is to describe the Arizona Department of Transportation's responsibility to effectively control junkyards within 1000 feet of the right-of-way on interstate highways under A.R.S. §§ 28-7941 through 28-7946.
- B.** Definitions. For purposes of this Section:
1. "Department" means the Arizona Department of Transportation.
  2. "Director" means the Director, Arizona Department of Transportation or the Director's designated representative.
  3. "Screening" means the use of vegetative planting, fencing, masonry wall or other constructed structure, earthen embankment, or a combination of any of these that effectively hides from view a deposit of junk from the main-traveled way.
  4. "Screening license" means a license issued by the Director as required by A.R.S. § 28-7943 and as described in this Section.
  5. "Unzoned industrial area" means the same as in A.R.S. § 28-7901(11).
- C.** Screening license application procedure.
1. Screening license required. The Department requires a screening license for a junkyard that:
    - a. Was established or expanded after July 1, 1974;
    - b. Is located within 1000 feet of the nearest edge of the right-of-way of the interstate highway system;
    - c. Is within view of the main-traveled way of the interstate highway system; and
    - d. Is not located in a zoned or unzoned industrial area.
  2. Screening license form. An applicant shall use the Department "junkyard permit application" form to apply for a screening license, and provide the following information:
    - a. Name, address, and telephone number of the owner;
    - b. Legal description of the land where the junkyard to be screened is located;
    - c. Name and address of the junkyard business;
    - d. Location of the junkyard, including:
      - i. The highway route number,
      - ii. Distance, in feet, to nearest highway milepost,
      - iii. Distance, in feet, from the highway right-of-way to the junkyard boundaries.
    - e. Zoning classification of the land where the junkyard is located; and,

- f. Type, size, and date of establishment of the junkyard.
- 3. Application mailed to Permits Manager. An applicant shall mail the completed junkyard permit application, required documentation and the \$25.00 fee, in the form of a check or money order payable to the Arizona Department of Transportation, to:  
Arizona Department of Transportation  
Intermodal Transportation Division  
206 South 17th Avenue, MD 004R  
Phoenix, AZ 85007  
Attention: Maintenance Permits Manager, Maintenance Section
- 4. Required documentation. Along with the junkyard permit application, an applicant shall submit the following documentation:
  - a. A location diagram or plat of the junkyard area that indicates:
    - i. The highway route number;
    - ii. Distance, in feet, to nearest highway milepost;
    - iii. Physical features such as buildings, bridges, culverts, utility poles, and other stationary improvements or site features that adequately describe the location; and
    - iv. Distance, in feet, from the highway right-of-way to the junkyard boundaries.
  - b. A drawing or plan, drawn to scale, of the junkyard screening design to be used, that includes:
    - i. Plan view;
    - ii. Elevation;
    - iii. Construction details of fencing, berms, and plantings used alone or in combination;
    - iv. If applicable, plant pit size, backfill material to be used, planting and staking details, botanical names of plant materials, plant size at the time of planting, and the spacing between plants; and
    - v. Any details necessary to show design and construction materials to be used.
- 5. Extensions. A request for an extension shall be in writing. The Department shall grant a 60 day extension in the following circumstances:
  - a. If an applicant requests an extension for completion of screening within 90 days after the Department approves a screening license; and
  - b. If the Department gives a junkyard owner a violation notice and the junkyard owner requests an extension to submit the screening application within 60 days of receiving the violation notice.
- 6. License issuance or denial.
  - a. The Department shall grant an application for a screening license only if the application complies with all requirements of A.R.S. §§ 28-7941 through 28-7946 and this Section.
    - i. A junkyard owner has 180 days from the date of approval to screen the junkyard.
    - ii. The Department shall field check each approved license to ensure compliance with the screening requirements of A.R.S. §§ 28-7941 through 28-7946, and this Section.
  - b. If the Department denies an application because the screening plan does not comply with A.R.S. §§ 28-7942 through 28-7946 or this Section, an applicant may, within 10 days of the denial, request permission in writing to submit an amended application and amended screening plan without paying an additional fee.
- c. A junkyard owner who fails to complete the junkyard screening within 180 days from approval of the screening license, or other prescribed period, may be found guilty under subsection (D)(9).
- 7. Invalidation of screening license. An existing screening license shall become invalid at a previously approved location when the junkyard is enlarged or substantially changed in use so that the screening no longer adequately screens the junk. An owner shall apply for a new and separate screening license.
- 8. Transfer of screening license. To transfer a screening license upon sale of a junkyard, a new owner shall submit to the Department written notification of sale within 30 days after date of sale. Upon sale of a junkyard, the new owner shall continue all screening maintenance.
- D. Screening.**
  - 1. Purpose. This subsection describes the requirements governing the location, planting, construction, and maintenance, of materials used in screening junkyards as required in A.R.S. § 28-7942(D).
  - 2. Junkyard expansions. A junkyard owner shall be responsible for any expense to expand an existing junkyard screen. Screening expansions shall be aesthetically compatible, as the Director determines, with existing screens.
  - 3. Screening location. Fences and screens shall be located so as not to be hazardous to the traveling public. New junkyards and expansions shall have screens in place before any junk is deposited.
  - 4. Acceptable screening. When fencing is used alone or in combination with plant material, the fencing shall be capable of screening the junk entirely from view. When planting is used alone or in combination with an earthen berm, the number, type, size, and spacing of the plants shall be capable of screening the junk entirely from view, as determined by the Department.
  - 5. Acceptable fencing materials. Acceptable fencing includes: steel or other metals; durable woods such as heart cypress, redwood, or other wood treated with a preservative; and walls of concrete block, brick, stone, or other masonry. Metal fencing shall be stained, colored, coated, or painted to blend into surroundings and be aesthetically unobtrusive.
  - 6. Acceptable plant materials. Plant materials used shall be predominantly evergreen. In general, the minimum size of plant materials used shall be equal to five-gallon containers. An applicant may obtain a list of acceptable plant materials from the Department.
  - 7. Screening maintenance. A junkyard owner shall ensure that screening does not enter the right-of-way. A junkyard owner shall maintain all screening in good condition by:
    - a. Maintaining fences, walls, or other structural material in good appearance by timely painting and repair.
    - b. Adequately watering, cultivating, mulching, or giving other maintenance to plant material, including spraying for insect control, to keep the planting in healthy condition; and
    - c. Removing all dead plant material immediately and replacing it promptly during the following planting season. Replacement plants shall be at least as large as the initial planting as approved on the screening license.
  - 8. Abandoned, destroyed, or voluntarily discontinued junkyards. A junkyard that ceases to operate for a period of



one year or longer, shall comply with A.R.S. § 28-7943 and obtain a screening license to be reopened.

9. Violation.

- a. The Department shall issue a violation notice to a junkyard owner for failing to comply with A.R.S. §§ 28-7941 through 28-7946. A junkyard owner shall have 60 days from the date the violation notice is issued to apply for a screening license and submit a screening plan for the Department's review and approval.
- b. A person who violates any provision of A.R.S. §§ 28-7941 through 28-7946 or this Section for junkyard control can be found guilty of a misdemeanor under A.R.S. § 28-7946.

**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Amended effective June 13, 1980 (Supp. 80-3). Former Section R17-3-713 renumbered without change as Section R17-3-703 (Supp. 88-4). Amended by final rulemaking at 8 A.A.R. 844, effective February 8, 2002 (Supp. 02-1).

**ARTICLE 8. ARIZONA PARKWAYS AND HISTORIC AND SCENIC ROADS**

**R17-3-801. General Provisions**

The following definitions apply:

"Corridor Management Plan (CMP)" means a written document developed with public involvement that specifies the actions, procedures, controls, operational practices, and administrative responsibilities and strategies to manage and protect the resources of a designated road.

"Department" means the Arizona Department of Transportation.

"Designate" means to grant status as a parkway, historic road, or scenic road to certain physical boundaries of a road or area under A.R.S. §§ 41-512 through 41-518.

"Interstate highway" has the meaning in A.R.S. § 28-7901(4).

"PHSRAC" means the Arizona Parkways, and Historic and Scenic Roads Advisory Committee.

"Road" means any federal, state, county, Indian, or municipality roadway or right-of-way.

"Request" means a written statement submitted to PHSRAC by an agency, group, or individual to ask PHSRAC to consider an initial assessment to recommend certain road segments for a designated road.

"Resources" means the cultural, natural, scenic, or historic qualities of a requested parkway or historic or scenic road.

"State highway" has the meaning in A.R.S. § 28-101(47).

"Viewshed" means the three visual areas that can be seen from a specific stopping point on or near a roadway, comprised of the:

Foreground (the area up to one-third mile from the edge of the roadway where individual parts of a plant are distinguishable);

Middleground (the area beginning one third from the edge of the roadway and extending to three miles from the roadway where individual plants are distinguishable); and

Background (the area more than three miles from the roadway, where individual plants are indistinguishable but are visible as vegetative cover).

**Historical Note**

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

**R17-3-802. Meetings and Organization of PHSRAC**

**A. Chairperson.**

1. At the first meeting of the fiscal year, PHSRAC shall elect a chairperson and vice chairperson. The chairperson and vice chairperson shall assume the duties of office at the close of the first meeting.
2. If the chairperson or vice chairperson resigns or vacates the office before the term expires, PHSRAC shall elect a replacement to serve the remainder of the term at the next scheduled meeting.
3. The chairperson shall preside at all meetings, appoint subcommittees of PHSRAC, and perform other duties as necessary to the office of chairperson.
4. If the chairperson is absent or incapacitated, the vice chairperson shall exercise the duties of the chairperson.

**B. Meetings.**

1. PHSRAC shall meet at least once each six months at a time and place designated by the chairperson.
2. The chairperson, the vice chairperson with the chairperson's approval, or any six members of PHSRAC may call a meeting as necessary to conduct PHSRAC's business.
3. PHSRAC shall notice all meetings as prescribed in A.R.S. Title 38, Article 3.1.

**C. PHSRAC's decisions become effective by a majority vote of attending members if a quorum is present. A quorum consist of six or more members of PHSRAC present at a meeting convened under A.R.S. Title 38, Article 3.1.**

**Historical Note**

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

**R17-3-803. Request to Designate a Road**

- A.** Any agency, group, or individual may request PHSRAC to recommend that the Transportation Board designate a road. An applicant agency, group, or individual shall submit a written request to the Chairman of PHSRAC, care of the Department. The request shall identify the applicant and state the road segment to be included in a proposed designated road.
- B.** At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall conduct an initial assessment of the request based on the factors in R17-3-804(A). PHSRAC shall decide by majority vote whether to allow the applicant to submit an application and report as described in subsection (C).
- C.** If PHSRAC approves an initial assessment, PHSRAC shall provide the applicant with a copy of the "Application Procedures for Designation of Parkways and Historic or Scenic Roads in Arizona." The applicant shall submit the following:
  1. A written letter of support for designation of the road by the entity having jurisdiction over the road. If the proposed designated road is a state highway, a local community group shall submit the letter of support; and
  2. A report that includes the following for the proposed designated road:
    - a. Recommended road segment to be designated;
    - b. Area on either side of the road necessary to protect the historic, cultural, or visual resources of the proposed designated road;
    - c. Adjacent land ownerships;

- d. Existing major land use along the proposed designated road;
  - e. Area zoning;
  - f. Still photos or other supportive material of outstanding and representative scenery, or other resources;
  - g. Recommendations to protect or enhance the historic, cultural, or visual resources of the proposed designated road;
  - h. Visual impact of existing outdoor advertising; and
  - i. Inventory of resources as prescribed in subsection (D).
- D.** An inventory of resources includes the following, as applicable to the proposed designated road:
- 1. Natural resources such as geology, hydrology, climate, biota, and topography;
  - 2. Visual resources, including a systematic:
    - a. Selection of appropriate viewsheds,
    - b. Classification of the proposed designated road's scenic elements and viewsheds, and
    - c. Evaluation of the visual quality of each viewshed.
  - 3. Cultural resources, including:
    - a. Architectural resources, including structures, landscaping, or other human constructions, that possess artistic merit and represent the architectural class or time period of human achievement;
    - b. Historical resources, including sites, districts, structures, artifacts, or other evidence of human activities that represent aspects or events of national, state, or local history;
    - c. Archaeological resources, including sites, artifacts, or structures that date from
      - i. Prehistoric or aboriginal periods; or
      - ii. Historic periods, or non-aboriginal activities for which only vestiges remain; and
    - d. Cultural development resources, including:
      - i. Political or governmental development,
      - ii. Social or cultural impact on civilization in the proposed area, or
      - iii. Technological or economic impact of civilization in the proposed area.
- E.** For a proposed designated road that is part of the Arizona state highway system, the Department shall prepare the report required in subsection (C)(2).
- F.** The Department shall submit the inventory of resources to the Arizona Historical Advisory Committee of the Arizona State Library, Archives, and Public Records for its evaluation of the value of any historical resource of a proposed designated road.

#### Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

#### R17-3-804. PHSRAC's Process

- A.** After receiving all information requested in R17-3-803(C) and (D), PHSRAC shall evaluate the extent and quality of the resources for the proposed designated road. PHSRAC shall consider the following factors in deciding to recommend designation to the Transportation Board:
- 1. The memorability of the visual impression from contrasting landscaping elements;
  - 2. The integrity of the visual order in the natural and human-built landscape, and the extent to which the landscape is free from visual encroachment;

- 3. The degree to which visual aspects of the landscape elements join to form a harmonious, composite, and visual pattern;
  - 4. Degree of the historical or cultural contribution to the area, state, or nation;
  - 5. Proximity and access of the proposed designated road to the historical place or area;
  - 6. Sufficient land area for a parkway to accommodate visitor facilities; and
  - 7. Evaluation by the Arizona Historical Advisory Committee.
- B.** At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on a recommendation for designation of a road to the Transportation Board. PHSRAC shall:
- 1. Approve and recommend a designation by a majority vote, or
  - 2. Deny a request for designation.
- C.** If PHSRAC approves and recommends designation, PHSRAC shall submit the recommendation to the Director to present to the Transportation Board. The Transportation Board has sole authority to designate a road as a parkway, historic, or scenic road

#### Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

#### R17-3-805. Reconsideration of PHSRAC's Decision

- A.** If PHSRAC denies a request to designate a proposed road at the initial assessment stage, as described in R17-3-803(B), the agency, group, or individual that requested designation may prepare and submit an application and report under R17-3-803(C) to PHSRAC at its own cost. The agency, group, or individual shall submit the application and report within one year from the date of PHSRAC's decision denying the request.
- B.** If PHSRAC denies an application to designate a road, the agency, group, or individual may request that PHSRAC reconsider its decision:
- 1. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.
  - 2. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.
- C.** If additional information is presented, PHSRAC shall discuss and vote on the request for reconsideration at a meeting convened under A.R.S. Title 38, Article 3.1.

#### Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Correction to subsection (C) (Supp. 88-4). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

#### R17-3-806. Review of Existing Designated Parkway or Historic or Scenic Road

- A.** Review.
- 1. PHSRAC shall review a designated road to compare and ensure that the present conditions and resources comply with the conditions and resources that existed at the time

the road was designated in order to ensure continued designation.

2. PHSRAC shall conduct a review:
  - a. At least every five years from initial designation,
  - b. At the design stage of any construction or reconstruction proposed by the Department or the entity having jurisdiction of the designated road, or
  - c. If the entity having jurisdiction or a local community group recommend deletion of the designated road.

**B. Corridor Management Plan ("CMP").**

1. The Department incorporates by reference the Federal Highways Administration's Notice of FHWA interim policy, published in the Federal Register, 60 F.R. 26759, May 18, 1995, and no later amendments or editions. The incorporated material is on file with the Department.
2. The entity having jurisdiction or any member of the public shall use the guidelines outlined in the Notice of FHWA interim policy, incorporated by reference in R17-3-806(B)(1), to prepare a CMP.
3. The entity having jurisdiction or any member of the public shall submit a CMP to PHSRAC as stated in R17-3-803(A), for PHSRAC's review.
4. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on whether to recommend to the Department or the entity having jurisdiction to adopt and implement the CMP, using the guidelines outlined in the Federal Highways Administration's Notice of FHWA interim policy.

**C. Deletion.**

1. Based on its review conducted under subsection (A), PHSRAC shall discuss and vote on a recommendation for deletion of a designated road at a meeting convened under A.R.S. Title 38, Article 3.1.
2. Reconsideration. The entity having jurisdiction of a designated road or a local community group may request that PHSRAC reconsider its decision if PHSRAC recommends deletion of a designated road.
  - a. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.
  - b. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.
  - c. PHSRAC shall use the procedures described in R17-3-805 to reconsider its decision.
3. PHSRAC shall submit a recommendation for deletion to the Director for the Director to present to the Transportation Board.

**Historical Note**

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

**R17-3-807. Approvals and Agreements Between Agencies for Designation**

If the Transportation Board designates a road that is not a state highway, the designation becomes effective after the Department and the entity having jurisdiction complete an interagency agreement and file the agreement with the Secretary of State. The agree-

ment shall include the following:

1. PHSRAC's resource listing and evaluation for designation as recommended to the Director for the Director's presentation to the Transportation Board,
2. Requirements or recommendations for protecting unique features and resources,
3. Provisions for Department-approved signing,
4. Provisions for an access road or subdivision access to a parkway as restricted under A.R.S. § 41-514(F),
5. Statements regarding the conditions of the designation,
6. Provisions if the Transportation Board deletes a road and cancels an agreement, or
7. Provisions that the Department, the Arizona Parks Board, or the Arizona Historical Society do not have any financial or legal responsibility for another agency or government unit by designating a highway as a parkway or historic or scenic road.

**Historical Note**

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

**R17-3-808. Construction and Maintenance Standards; Signing**

- A.** Under A.R.S. § 41-516, the Department or entity having jurisdiction may allow a design exception effecting construction or maintenance in order to protect and enhance a special feature or unique resource of the designated road, based on engineering judgment and the current standards of the American Association of State Highway and Transportation Officials.
- B.** The Department or entity having jurisdiction shall provide signing to identify the designated road, based on the current edition of the Manual on Uniform Traffic Control Devices adopted under A.R.S. § 28-641, and the following criteria:
  1. A logo associated with a sign that identifies a designated road shall not be used without PHSRAC's written permission.
  2. The Department shall provide signing identifying a designated state highway depending on the level of fiscal constraint and available funding.
  3. The Department shall not allow signing identifying a designated road on an interstate highway.
  4. PHSRAC and the Director shall review any other signing related to identifying a designated road, such as historical markers, in order to ensure the signing conforms to Department standards and resource character of the road.
  5. A sign shall not visually interfere with or distract from an adjacent traffic control device, or the historic or scenic quality of an area.
  6. Signing identifying the designated road should be as close as practicable to the established termini. Within the designated road, signing shall be at least five miles apart. If the termini of the designated road are less than ten miles apart, no additional signing shall be installed within the designated road.
  7. If a designated road begins or ends at a point at a junction or intersection of another road, the signing for the designated road shall be located beyond the junction and beyond any signing that is installed immediately after the junction or intersection. Signing for the designated road may be incorporated with or into advance guide signing for the other road if spacing allows.
  8. If an intersecting road is a designated road, and the beginning or end is not immediately adjacent to the junction or

intersection, any signing shall be located only on the designated road.

9. If the Transportation Board deletes a road, the Department or entity having jurisdiction shall remove all designation signing.

#### Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

### R17-3-809. Repealed

#### Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

## ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

### R17-3-901. Signing for Colleges and Universities

#### A. Definitions.

“Community College” has the meaning as prescribed in A.R.S. § 15-1401.

“Department” means the Arizona Department of Transportation.

“FHWA” means the Federal Highway Administration of the U.S. Department of Transportation.

“Major metro area” means an urban area with a population of at least 50,000.

“Municipality” means an incorporated city or town.

“MUTCD” means the Manual on Uniform Traffic Control Devices, a national standard for the design and application of traffic control devices published by the U.S. Department of Transportation (U.S. DOT), Federal Highway Administration (FHWA) and is used as the standard for traffic control devices for use on the streets and highways of the state of Arizona as required by A.R.S. § 28-641.

“Nonconforming sign” means an erected sign that does not comply with this Section or A.R.S. § 28-642(D) due to changes in the statutes, rules, or changed conditions. Examples of changed conditions include the reconstruction of a highway, or physical deterioration of a sign.

“Regionally accredited college or university” means a college or university accredited by a regional institutional accrediting association recognized by the Arizona State Board for Private Postsecondary Education.

“Rural area” means all areas other than a major metro area, or an urban area.

“Signing” means standard highway supplemental guide signs as specified in the MUTCD.

“State highway” has the same meaning as prescribed in A.R.S. § 28-101.

“State University” means a university established and maintained by the Arizona Board of Regents under A.R.S. § 15-1601.

“Trailblazing sign” means a sign installed by a local governmental agency, off the state highway, to guide traffic to a college or university.

“Trip” means a one-way commute to or from a college or university, calculated by the Department based on the

number of students or dorm beds, using the following equivalents:

One student = 1 1/2 trips

One dorm bed = three trips.

“Urban area” means a municipality having a population of at least 15,000 but less than 50,000.

“U.S. DOT” means the United States Department of Transportation.

- B. Application for signing. A college or university referenced in A.R.S. § 28-642(D) may request signing by submitting a letter on its letterhead to the Department’s State Traffic Engineer. The letter shall contain the following information:

1. Name of college or university;
2. Complete street address;
3. Names of agencies granting accreditation;
4. Number of students;
5. Number of dormitory beds, if applicable; and
6. Signature of a person authorized to sign for the college or university.

- C. Requirements. To be considered for signing, a college or university referenced in A.R.S. § 28-642(D) shall satisfy the following:

1. Is on a road that intersects a state highway. If a college or university is on a road that does not intersect a state highway, it still may qualify if:
  - a. The governing political subdivision submits to the Department, within 30 days from the Department’s receipt of the request for signing, written confirmation stating that the governing political subdivision will install and maintain trailblazing signs; and
  - b. The governing political subdivision installs trailblazing signs before the Department places signing on the state highway.
2. Meets all the requirements under subsection (C)(2)(a), (b), or (c) of this Section.
  - a. If in a major metro area:
    - i. Generates at least 4000 trips per weekday.
    - ii. Is three miles or less from a state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of five miles.
  - b. If in an urban area:
    - i. Generates at least 2000 trips per weekday.
    - ii. Is four miles or less from a state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of five miles.
  - c. If in a rural area:
    - i. Generates at least 1000 trips per weekday.
    - ii. Is five miles or less from the state highway, except the distance may be increased 1/4 mile for each 10% increase in the required number of trips per weekday to a maximum of 15 miles.

- D. Exceptions to standards. The Department may place supplemental guide signs on state highways to direct traffic to colleges and universities. The Department shall determine whether to place supplemental guide signs for a college or university based on the specific criteria and the guidelines in the MUTCD.

- E. Nonconforming signs. The Department may remove a nonconforming sign if:

1. Other signs have greater priority under the criteria in the MUTCD,

2. Physical spacing of signs is limited for an upcoming interchange or intersection, or
3. A greater number of trips are generated by the subject of other guide signs.

F. College or university. Only the initial, main campus of a college or university referenced in A.R.S. § 28-642(D) may qualify for signing, unless otherwise permitted by statute.

#### Historical Note

Adopted effective May 7, 1991 (Supp. 91-2). Amended by final rulemaking at 8 A.A.R. 3838, effective August 12, 2002 (Supp. 02-3). Amended by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

### R17-3-902. Logo Sign Programs

#### A. Definitions.

“Attraction” means any of the following:

“Arena” means a facility that has a capacity of at least 5000 seats, and is a:

Stadium or auditorium;

Track for automobile, boat, or animal racing; or

Fairground that has a tract of land where fairs or exhibitions are held, and permanent buildings that include bandstands, exhibition halls, and livestock exhibition pens.

“Cultural” means an organized and permanent facility that is open to all ages of the public, and is a:

Facility for the performing arts, exhibits, or concerts; or

Museum with professional staff, and an artistic, historical, or educational purpose, that owns or uses tangible objects, cares for them, and exhibits them to the public.

“Domestic farm winery” means a site licensed by the Arizona Department of Liquor Licenses and Control under A.R.S. § 4-205.04 that produces at least 200 gallons and not more than 40,000 gallons of wine annually that is commercially packaged for off-premises sale, and is open to the public for tours to provide an educational format for informing visitors about wine.

“Domestic microbrewery” means a site licensed by the Arizona Department of Liquor Licenses and Control under A.R.S. § 4-205.08 that produces not less than 5000 gallons of beer in each calendar year following the first year of operation and not more than 1.24 million gallons of beer in a calendar year, and is open to the public for tours to provide an educational format for informing visitors about beer.

“Dude ranch” means a facility offering overnight lodging, meals, horseback riding, and activities related to cattle ranching;

“Educational” means a facility that is a:

Community college, regionally accredited college or university, or state university, as defined in R17-3-901. Educational excludes a business or research park affiliated with a college or university;

Scientific institution, designated research area, or site of specialized research techniques and apparatus that is accredited by a nationally recognized educational accreditation agency, and that conducts regular tours; or

Zoological or botanical park that houses and exhibits living animals, insects, or plants to the public.

“Farm-related” means an established area or facility where consumers can purchase directly from Arizona producers locally-grown consumer-picked or pre-picked produce, or local products produced from locally-grown produce.

“Golf course” means a facility offering at least 18 holes of play. Golf course excludes a miniature golf course, driving range, chip-and-putt course, and indoor golf.

“Historic” means a structure, district, or site that is listed on the National or Arizona Register of Historic Places as being of historical significance, and includes an informational device to educate the public about the facility’s historic features.

“Mall” means a shopping area with at least 1 million square feet of retail shopping space.

“Recreational” means a facility for physical exercise or enjoyment of nature that includes at least one of the following activities: walking, hiking, skiing, boating, swimming, picnicking, camping, fishing, playing tennis, horseback riding, skating, hang-gliding, and climbing;

“Scenic tours” means a business that offers guided tours of scenic areas in Arizona through various means, including air, motorized vehicle, animal, walking, or biking;

“Business” means an entity that provides a specific service open for the general public, is located on a roadway within the required distance of an interstate or rural state highway, and is a primary or secondary business.

“Contract” means a written agreement between the Department and a contractor to operate a logo sign program or any aspect of a logo sign program that describes the obligations and rights of both parties.

“Contractor” means a person or entity that enters into an agreement with the Department to operate a logo sign program or any aspect of a logo sign program, and that is responsible for those aspects of a logo sign program as provided in the contract.

“Department” means the Arizona Department of Transportation.

“Exit ramp” means a roadway by which traffic may leave a controlled access highway to another highway.

“FHWA” means the Federal Highway Administration of the U.S. Department of Transportation.

“Food court” means a collective food facility that exists in one contiguous area and contains a minimum of three separate food service businesses.

“Highway” has the same meaning as prescribed in A.R.S. § 28-101.

“Interchange” means the point at which traffic on a system of interconnecting roadways that have one or more grade separations, moves from one roadway to another at a different level.

“Intersection” has the same meaning as prescribed in A.R.S. § 28-601.

“Interstate system” has the same meaning as prescribed in A.R.S. § 28-7901.

“Interstate logo sign program” means a system to install and maintain specific service information signs on certain portions of an interstate system as provided in A.R.S. § 28-7311.

“Lease agreement” means a written contract between a contractor and a responsible operator or between the Department and a responsible operator to lease space for a responsible

operator's logo on a contractor's or the Department's specific service information sign.

"Logo" means an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.

"Logo sign" means a specific service information sign consisting of a lettered board attached to a separate rectangular panel that displays an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.

"Logo sign panel" means a separate rectangular panel on which a logo is placed.

"Major decision point" means a location at or before the point at which a rural state highway intersects with another rural state highway or a local roadway, that is within a municipality (except an urbanized area), and that the Department determines to be the point at which a driver shall make a decision whether to stay on the highway or turn off onto the other highway or local roadway.

"Municipality" means an incorporated city or town.

"MUTCD" has the same meaning as prescribed in R17-3-901.

"Primary business" means:

A gas service business that is within three miles of an intersection or exit ramp; is in continuous operation to provide services at least 16 hours per day, seven days per week for the interstate system; and 12 hours per day, seven days per week, for other highways;

A food service business that is within three miles of an intersection or exit ramp terminal and is in continuous operation to serve at least two meals per day at least six days per week;

A lodging service business that is within three miles of an intersection or exit ramp terminal;

A camping service business that is within five miles of an intersection or exit ramp terminal;

An attraction service business, or staging area of that business, that is within three miles of an intersection or exit ramp terminal; or

A 24-hour pharmacy that is within three miles of an interchange or exit ramp terminal.

"Ramp terminal" means the area where an exit ramp intersects with a roadway.

"Responsible operator" means a person or entity that:

Owns or operates a business,

Has authority to enter into a lease, and

Enters into a lease for a logo sign through the interstate, rural, or urban logo sign program.

"Rural logo sign program" means a system to install and maintain specific service information signs on a rural state highway outside of an urbanized area, as provided in A.R.S. § 28-7311.

"Rural state highway" means any class of state highway, other than an interstate highway, located outside of an urbanized area as provided in A.R.S. § 28-7311(B) and (E)(2).

"Secondary business" means a business as follows:

A gas service business that is within three to 15 miles of an intersection or exit ramp terminal, and is in continuous operation to provide services at least eight hours per day, five consecutive days per week;

A food service business that is within three to 15 miles of an intersection or exit ramp terminal, and is in continuous operation to serve at least two meals per day (either

breakfast and lunch, or lunch and dinner) for a minimum of five consecutive days per week;

A lodging service business that is within three to 15 miles of an intersection or exit ramp terminal;

A camping service business that is within five to 15 miles of an intersection or exit ramp terminal; or

An attraction service business, or staging area of that business, that is within three to 15 miles of an intersection or exit ramp terminal.

A 24-hour pharmacy that is between three to 15 miles of an interchange or exit ramp terminal.

"Specific service" means gas, food, lodging, camping, attractions, or 24-hour pharmacies.

"Specific service information sign" means a rectangular sign panel that contains directional information, one or more logos, and the following words:

"GAS," "FOOD," "LODGING," "CAMPING,"  
"ATTRACTION," OR "24-HOUR PHARMACY."

"Staging area" means a regular, designated site where a scenic tour begins.

"State highway" has the same meaning as prescribed in A.R.S. § 28-101.

"Straight-ahead sign" means a specific service information sign that provides additional directional guidance to a location, route, or building located straight ahead on a roadway, and that is located before a junction that is a major decision point.

"Trailblazing sign" means a specific service information sign that provides additional directional guidance to a location, route, or building from another highway or roadway.

"Urbanized area" has the same meaning as prescribed in A.R.S. § 28-7311(E)(2).

"Urban logo sign program" means a system to install and maintain specific service information signs on an interstate system within an urbanized area, as provided in A.R.S. § 28-7311.

"U.S. DOT" means the United States Department of Transportation.

## B. Administration.

1. The Department may operate an urban, an interstate, and a rural logo sign program, or may select a contractor to administer an urban, an interstate, and a rural logo sign program. If the Department utilizes a contractor to administer an urban, an interstate, and a rural logo sign program, the Department shall solicit offers, as provided in A.R.S. §§ 41-2501 through 41-2673, to select a contractor.
2. The Department may contract separately for an urban, an interstate, and a rural logo sign program.
3. A contract shall specify the standards that a contractor shall use, which are contained in the MUTCD, U.S. DOT/FHWA, current edition as adopted by the Department under A.R.S. § 28-641 and any other requirements and standards prescribed by the Department.
4. The Department may propose its own form of a written lease agreement with a responsible operator. The Department shall pre-approve the form of any written lease agreement between a contractor and a responsible operator. A contractor's lease agreement with a responsible operator shall include, by reference, the terms and conditions of the Department's contract with a contractor under A.R.S. §§ 41-2501 through 41-2673.

## C. Eligibility criteria for primary and secondary businesses.

1. Any business is ineligible to place a logo on a logo sign panel if it already has a highway guide sign installed by the Department.
  2. Gas service business. To be eligible to place a logo on a logo sign panel, a gas service business shall:
    - a. Provide gasoline, diesel fuel, oil, and water for public purchase or use;
    - b. Provide sanitary restroom facilities and drinking water;
    - c. Provide a telephone available for public use; and
    - d. Meet the additional requirements for a primary or secondary gas service business in the definition of a primary or secondary business in subsection (A) of this Section.
  3. Food service business. To be eligible to place a logo on a logo sign panel, a food service business shall:
    - a. Provide sanitary restroom facilities for customers;
    - b. Provide a telephone available for public use;
    - c. If a food service business is part of a food court located within a shopping mall, the shopping mall may qualify as the responsible operator if the food court:
      - i. Complies with this Section, and
      - ii. Has clearly identifiable on-premise signing consistent with the logo sign that is sufficient to guide motorists directly to the entrance to the food court.
    - d. Have a license where required; and
    - e. Meet the additional requirements for a primary or secondary food service business in the definition of a primary or secondary business in subsection (A).
  4. Lodging service business. To be eligible to place a logo on a logo sign panel, a lodging service business shall:
    - a. Provide five or more units of sleeping accommodations;
    - b. Provide a telephone available for public use;
    - c. Have a license, where required;
    - d. Provide sanitary restroom facilities for customers; and
    - e. Meet the additional requirements for a primary or secondary lodging service business in the definition of a primary or secondary business in subsection (A).
  5. Camping service business. To be eligible to place a logo on a logo sign panel, a camping service business shall:
    - a. Be able to accommodate all common types of travel trailers and recreational vehicles;
    - b. Have a license, where required;
    - c. Provide sanitary restroom facilities and drinking water;
    - d. Be available on a year-round basis unless camping in the community is of a seasonal nature in which case the facilities in question shall be open to the public 24 hours per day, seven days per week during the entire season; and
    - e. Meet the additional requirements for a primary or secondary camping service business in the definition of a primary or secondary business in subsection (A).
  6. Attraction service business. To be eligible to place a logo on a logo sign panel, an attraction service business shall meet the following requirements, if applicable:
    - a. Derive less than 50% of its sales from:
      - i. The sale of alcohol consumed on the premises, or
      - ii. Gambling.
    - b. Derive more than 50% of its sales or visitors during the normal business season from motorists not residing within a 25-mile radius of the business.
    - c. Provide at least 10 parking spaces.
    - d. Be significant as a historic, cultural, scientific, educational, or recreational site, natural scenic phenomenon, or unique commercial activity.
    - e. Be in continuous operation at least six hours per day, six days per week, except:
      - i. An arena attraction shall hold events at least 28 days annually;
      - ii. A cultural attraction shall be open at least 180 days annually;
      - iii. An educational attraction shall operate at least six hours per day, five days per week;
      - iv. A domestic farm winery or domestic micro-brewery shall be open for tours at least 40 days annually;
      - v. A farm-related attraction shall be open at least 120 days annually; or
      - vi. A dude ranch shall be open at least 150 days annually.
    - f. Meet the additional requirements for a primary or secondary attraction service business in the definition of a primary or secondary business in subsection (A) of this Section.
  7. Twenty-four hour pharmacy business. To be eligible to place a logo on a logo sign panel, a 24-hour pharmacy business shall:
    - a. Operate continuously 24 hours per day, seven days per week;
    - b. Have a state-licensed pharmacist present and on duty at all times; and
    - c. Meet the additional requirements for a primary or secondary 24-hour pharmacy business in the definition of a primary or secondary business in subsection (A).
- D. Ranking.**
1. If more than six eligible businesses providing the same specific service request lease space and placement of a logo on one specific service information sign, a contractor or the Department shall use the following ranking criteria to determine which businesses are awarded a lease:
    - a. The business closest to an intersection or exit ramp terminal shall receive first priority,
    - b. A gas service business or a food service business that provides the most days and hours of service shall receive second priority,
    - c. A business that does not have an off-premise advertising sign to direct motorists to its business within five miles from the location of the specific service information sign shall receive third priority, and
    - d. All other businesses shall be ranked on a first-come first-served basis by the date and time of the initial request.
  2. If two or more businesses have the same ranking, a contractor or the Department shall award a lease to the first business that requests placement of a logo on a logo sign panel. A contractor or the Department shall establish a waiting list for other businesses in sequence of each request.
  3. A contractor or the Department may elect not to renew the lease of a responsible operator if another eligible business with higher priority requests lease space for placement of a logo on a logo sign panel.
- E. Secondary businesses.**

1. Lease limitations. For a secondary business, a contractor or the Department may enter into a lease for up to five years or renew a lease for up to five years, with the following terms:
    - a. A responsible operator is guaranteed a term of two years, providing the responsible operator complies with all other terms of the lease;
    - b. After the two-year period, a contractor or the Department shall terminate the lease and remove the appropriate logo from the logo sign panel if another eligible business with higher priority requests lease space for a logo on a logo sign panel; and
    - c. A contractor or the Department shall notify a responsible operator at least six months before terminating the lease and removing a logo from the logo sign panel.
  2. A contractor or the Department shall display the following additional information on a specific service information sign for a secondary business, as space allows, based on the following ranking order:
    - a. Distance,
    - b. Days and hours of operation, and
    - c. Seasonal operation.
- F. Contractor or Department responsibility.**
1. A contractor shall follow all Department design standards and specifications for all sign panels, supports, and materials, as provided in the contract and the MUTCD.
  2. A contractor or the Department shall ensure that a business complies with all criteria established in this Section. A contractor or the Department shall not enter into a lease agreement or renew a lease agreement if the criteria are not met. If a responsible operator becomes ineligible to place a logo on a logo sign panel, a contractor or the Department shall remove a logo from a logo sign panel after notifying a responsible operator as provided in the lease.
  3. A contractor or the Department shall require that a responsible operator certify in writing as directed that a responsible operator will comply with all applicable federal, state, and local laws, ordinances, rules, and regulations.
  4. A contractor or the Department shall not place a specific service information sign that obstructs or detracts from a traffic control device.
  5. A contractor shall not remove or relocate an existing official traffic control device, as defined in A.R.S. § 28-601(12), to accommodate a specific service information sign without prior written approval by the Department, or a local authority under A.R.S. § 28-643.
  6. A contractor or the Department shall provide a copy of the signed lease agreement to a responsible operator as defined in subsection (A). A responsible operator shall deliver a logo for the logo sign panel to a contractor or the Department for installation, or contract with a contractor to fabricate a logo for a logo sign panel to a responsible operator's and the Department's specifications.
  7. A contractor or the Department shall return any pre-paid lease payments to a responsible operator if a responsible operator's logo is not installed on a logo sign panel for reasons caused by the Department or a contractor.
  8. A contractor shall obtain an encroachment permit under R17-3-501 through R17-3-509 before erecting or modifying a specific service information sign along a state highway.
  9. If a contractor requests an encroachment permit under R17-3-501 through R17-3-509, the Department's staff shall decide the best placement of a specific service information sign and shall cooperate with a contractor to provide information to the motoring public as prescribed in subsection (E)(2).
  10. If an urban, interstate, or rural logo sign program is terminated, a contractor or the Department shall:
    - a. Notify a responsible operator by certified mail of the termination and the location where a responsible operator may claim its logo,
    - b. Remove all sign panels and supports, and
    - c. Refund any lease payments on a prorated basis to each responsible operator.
  11. A contractor or the Department shall determine the position and location of new or additional logos on logo sign panels or specific service information signs when logo sign vacancies occur on a logo sign panel or a specific service information sign panel, and a new responsible operator wishes to lease space on that panel, or a waiting list exists.

#### Historical Note

Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Former Section R17-3-911 renumbered without change as Section R17-3-909 (Supp. 88-4). Former Sections R17-3-902 through R17-3-909 renumbered without change as Section R17-3-902 (Supp. 89-1). Amended effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 5047, effective November 4, 2003 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 3856, effective September 15, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

#### R17-3-903. Urban Logo Sign Program and Requirements

- A. Elimination of exit ramp or interchange.** For purposes of the urban logo sign program, when the Department eliminates an exit ramp or interchange from the state highway system in an urbanized area, a contractor or the Department shall install and maintain a specific service information sign panel on an interstate highway within an urbanized area, at an exit ramp or interchange directly preceding the exit ramp or interchange that the Department eliminates, as prescribed in this Section.
1. A business may request placement of a logo on a logo sign panel in writing by contacting the Department.
  2. A business shall meet the following eligibility criteria as prescribed in R17-3-902(C), except for any distance requirement:
    - a. Be located directly off the interstate highway, and
    - b. Have previous routine access from the eliminated exit ramp or interchange with direct access from:
      - i. The crossroad at the eliminated exit ramp or interchange;
      - ii. The frontage road of the interstate at the eliminated exit ramp or interchange, within 1000 feet of the crossroad; or
      - iii. The frontage road of the interstate at the eliminated exit ramp or interchange, within 1000 feet of the crossroad, as the frontage road existed before the exit ramp or interchange was eliminated.
  3. A business is responsible for fulfilling all other statutory, regulatory, and contractual requirements of the urban logo sign program.



4. A contractor or the Department shall not place a specific service information sign in an urban area for more than three years.
- B. Urban area.** Except as prescribed in this Section, a contractor shall not place a specific service information or directional sign on any highway in an urbanized area, which includes the following:
1. Phoenix:
    - a. Interstate 10, Agua Fria River bridge to Gila River Indian Reservation boundary (milepost 161.68);
    - b. Interstate 17, Skunk Creek bridge to junction Interstate 10;
    - c. State Route 51;
    - d. US 60, Beardsley Canal to Ellsworth Road (milepost 191.40);
    - e. State Route 85, 17th Avenue to 15th Avenue;
    - f. State Route 87, Chandler south city limit (milepost 162.82) to Salt River bridge;
    - g. State Route 88, US 60 to 200 feet north of Tomahawk Road (milepost 197.50);
    - h. State Route 101 loop;
    - i. State Route 143;
    - j. State Route 153;
    - k. State Route 202 loop; or
    - l. State Route 303 loop.
  2. Tucson:
    - a. Interstate 10, from railroad overpass (milepost 243.33) to milepost 272.00 (between Kolb and Rita traffic interchanges);
    - b. State Business 19, milepost 59.00 (between Hughes Plant Road and Los Reales Road) to junction Interstate 10;
    - c. Interstate 19, San Xavier Indian Reservation boundary (milepost 57.96) to junction Interstate 10;
    - d. State Route 86, milepost 167.83 (between Century Road and Old Ajo Way) to State Business 19;
    - e. State Route 77, junction Interstate 10 to Oro Valley north city limit (milepost 84.16); or
    - f. State Route 210; or
  3. Any other urbanized area with a population of 100,000 or more.
- C. Boundary changes.** If the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated so that an intersection, interchange, or exit ramp is no longer eligible for the urban logo sign program, the Department shall allow the logo signs within the revised urbanized boundaries to remain until the minimum lease obligations between a contractor and a responsible operator, or between the Department and a responsible operator have been fulfilled, or until lease termination, whichever occurs first.
- Historical Note**
- Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1). New Section made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).
- R17-3-904. Rural Logo Sign Program**
- A. Number of sign panels and services allowed.** Only four specific service information sign panels are allowed on an interstate or rural state highway at the approach to an intersection, interchange, or exit ramp.
1. Each specific service information sign panel shall contain a maximum of six logos as provided in Chapter 2J of the current version of the MUTCD.
  2. Only one specific service information sign panel for each type of specific service is allowed on an interstate or rural state highway at the approach to an intersection, interchange, or exit ramp. A contractor or the Department may combine types of specific services as prescribed in subsection (E).
  3. No more than three types of services shall be represented on any specific service information sign panel. If three types of services are displayed on one specific service information sign panel, the panel shall have two logo sign panels for each service, or a total of six logo sign panels. If two types of services are displayed on one sign, the logo sign panels shall be limited to either three for each type, for a total of six logo sign panels, or four for one type and two for the other type, for a total of six logo sign panels.
  4. One service type shall appear on no more than two specific service information sign panels.
  5. When logos for more than six businesses of a specific service type are displayed at the same interchange or intersection approach, no more than 12 logos of a specific service type shall be displayed on no more than two specific service information sign panels.
- B. Sign sequence.** A contractor or the Department shall install successive specific service information signs in the direction of travel for the following as specified in the MUTCD:
1. Twenty-four hour pharmacies,
  2. Attractions,
  3. Camping,
  4. Lodging,
  5. Food, and
  6. Gas services.
- C. If a responsible operator operates on a seasonal basis, a contractor or the Department shall:**
1. Remove or cover a logo on a logo sign panel during the off-season; or
  2. Display the dates of operation, if additional information is not required under R17-3-902(E)(2).
- D. If the Department decides to move a specific service information sign because of construction or reconstruction of transportation facilities, or the placement of other signs or traffic control devices, the standards of the MUTCD apply regarding the new placement.**
- E. Combination signs.**
1. A contractor or the Department shall combine three or fewer types of specific services on a specific service information sign panel, or two or fewer logos for each service, for a total of six logos, as provided in Chapter 2J of the current version of the MUTCD, if:
    - a. A contractor or the Department reasonably expects that three or fewer businesses for each service type will request a logo sign within five years from the time of installing the combination sign;
    - b. The approach to an intersection, interchange, or exit ramp on an interstate or rural state highway has insufficient space in a single direction for four specific service information signs; or
    - c. Businesses for each of the six types of specific services request placement of a logo on a logo sign panel.
  2. A contractor or the Department shall attempt to achieve representation of as many different service types as possible.

3. A contractor or the Department shall not display a logo on a combination sign panel if the specific service type advertised by the logo already exists on a specific service information sign panel on the approach to the intersection, interchange, or exit ramp.
- F. Trailblazing signs.**
1. A contractor or the Department shall install a trailblazing sign for a responsible operator along a highway if a responsible operator's business is not located on, and is not visible from an intersection with a highway as directed from the specific service information sign.
  2. A contractor or the Department may locate a trailblazing sign near all intersections where the direction of the route changes or where a motorist may be uncertain which road to follow.
  3. A trailblazing sign is limited to four or fewer logos.
  4. A contractor or the Department shall obtain written approval from a local governing authority to install and maintain a trailblazing sign along a highway that is not under the Department's maintenance jurisdiction.
  5. A contractor or the Department shall not install a logo on a specific service information sign panel until all necessary trailblazing signs have been installed.
  6. A trailblazing sign shall indicate by arrow the direction to a responsible operator's business.
  7. A trailblazing sign may:
    - a. Duplicate the logo sign or specific service information sign, or both;
    - b. Consist of two lines of text; or
    - c. Include the type of specific service and distance to a responsible operator's business.
- G. A logo sign shall comply with A.R.S. § 28-648. Descriptive advertising words, phrases, or slogans are prohibited on a logo sign, except:**
1. If a responsible operator does not have an official trademark or logo, a responsible operator may display as its logo, on a logo sign panel, the name indicated in its partnership agreement, incorporation documents, or other documentation.
  2. Words to identify alternative fuel availability, including "diesel," "propane," "natural gas," and "alcohol" may be placed on a logo sign panel for a gas service business.

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1). New Section made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 4132, effective September 9, 2003 (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 5047, effective November 4, 2003 (Supp. 03-4). Amended by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

**Appendix A. Repealed****Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Appendix A repealed by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1).

**Appendix B. Repealed****Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Appendix B repealed by final rulemaking at 9 A.A.R. 624, effective

February 7, 2003 (Supp. 03-1).

**R17-3-905. Rural Logo Sign Requirements**

- A.** In addition to R17-3-902 through R17-3-904 and R17-3-906, the following requirements apply to the rural logo sign program:
1. A business is ineligible to place a logo on a logo sign panel if the business is visible and recognizable from a rural state highway 300 feet from the intersection.
  2. A contractor or the Department shall not install a specific service information sign on a rural state highway less than 300 feet before an intersection from which the services are available.
  3. The spacing between specific service information signs on a rural state highway shall be at least 200 feet based on engineering judgment.
- B.** Specific service information sign.
1. A contractor or the Department shall install a specific service information sign that combines three or fewer types of specific services and displays the legend "SERVICES" at an approach to an intersection on a rural state highway, in accordance with Chapter 2J of the current version of the MUTCD, if:
    - a. A contractor or the Department reasonably expects three or fewer types of specific services to lease space for placement of logos on a specific service information sign panel, and
    - b. A contractor or the Department reasonably expects the total number of logo sign panels to be leased on one specific service information sign will be at least three and not more than six.
  2. A contractor or the Department shall install no more than one specific service information sign panel that displays the legend "SERVICES" at an approach to an intersection.
  3. A contractor or the Department shall not display a logo on a specific service information sign panel that displays the legend "SERVICES" if the specific service type advertised by the logo sign already exists on a specific service information sign at the approach to the intersection.
- C.** A community official designated by a municipality or town organized under Arizona law may sign a written agreement with the Department or its contractor to prohibit installation of logos on logo sign panels or specific service information sign panels on rural state highways within the recognized boundaries of the community.

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1). New Section made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

**R17-3-906. Existing Leases**

Any change to R17-3-902 through R17-3-905 does not affect a responsible operator's existing lease before the lease expires.

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2).  
 Amended effective April 10, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1). New Section made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Amended by final rulemaking at 9

A.A.R. 5047, effective November 4, 2003 (Supp. 03-4).

**Illustration A. Repealed**

**Historical Note**

New Illustration made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Illustration repealed by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

**Illustration B. Repealed**

**Historical Note**

New Illustration made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Illustration repealed by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

**Illustration C. Repealed**

**Historical Note**

New Illustration made by final rulemaking at 9 A.A.R. 624, effective February 7, 2003 (Supp. 03-1). Illustration repealed by final rulemaking at 18 A.A.R. 1263, effective July 6, 2012 (Supp. 12-2).

**R17-3-907. Repealed**

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2). Former Section R17-3-907 repealed and a new Section R17-3-907 adopted effective June 18, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1).

**R17-3-908. Repealed**

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2). Former Section R17-3-908 repealed and a new Section R17-3-908 adopted effective April 10, 1987 (Supp. 87-2). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1).

**R17-3-909. Repealed**

**Historical Note**

Adopted effective March 22, 1985 (Supp. 85-2). Amended effective April 10, 1987 (Supp. 87-2). Former Section R17-3-911 renumbered without change as Section R17-3-909 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 1021, effective February 8, 2001 (Supp. 01-1).

This page intentionally left blank.

**TITLE 17. TRANSPORTATION**  
**CHAPTER 5. DEPARTMENT OF TRANSPORTATION**  
**COMMERCIAL PROGRAMS**

*Editor's Note: 17 A.A.C. 5 was created from Sections recodified from 17 A.A.C. 4 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).*

**ARTICLE 1. GENERAL PROVISIONS****ARTICLE 2. MOTOR CARRIERS**

## Section

- R17-5-201. Definitions
- R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Applicability
- R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General
- R17-5-204. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors
- R17-5-205. Repealed
- R17-5-206. Motor Carrier Safety: 49 CFR 392 - Driving of Commercial Motor Vehicles
- R17-5-207. Civil Penalties
- R17-5-208. Commercial Driver License Intrastate Medical Waiver; Intrastate Alternative Physical Qualification Standards for the Loss or Impairment of Limbs or Monocular Vision; Federal Diabetes Exemption Program
- R17-5-209. Hazardous Materials Transportation: Incorporation of Federal Regulations; Applicability
- R17-5-210. Motor Carrier Safety: Public Service Corporation, Political Subdivision of this State that is Engaged in Rendering Public Utility Service, or Railroad Contacting State Officials in an Emergency
- R17-5-211. Motor Carrier Safety: Inspection, Enforcement, Sanction
- R17-5-212. Motor Carrier Safety: Hearing Procedure

**ARTICLE 3. PROFESSIONAL DRIVER TRAINING**  
**SCHOOLS**

## Section

- R17-5-301. Reserved
- R17-5-302. Commercial driving schools and instruction licensing

**ARTICLE 4. DEALERS**

## Section

- R17-5-401. Reserved
- R17-5-402. Bond Amounts; Motor Vehicle Dealers, Brokers, and Recyclers Business Licenses
- R17-5-403. Bond Amount; Motor Vehicle Title Service Business License
- R17-5-404. Dealer Title Requirement for Vehicle Sale
- R17-5-405. Motor Vehicle Dealer Acquisition Contract
- R17-5-406. Motor Vehicle Dealer Consignment Contract
- R17-5-407. Motor Vehicle Repossession
- R17-5-408. Resale of a New Motor Vehicle

**ARTICLE 5. MOTOR CARRIER FINANCIAL**  
**RESPONSIBILITY**

## Section

- R17-5-501. Definitions
- R17-5-502. Repealed
- R17-5-503. Repealed
- R17-5-504. Requirement to Submit Proof of Financial Responsibility; Applicability; Procedure; Exception
- R17-5-505. Repealed

R17-5-506. Repealed

R17-5-507. Repealed

**ARTICLE 6. IGNITION INTERLOCK DEVICE**  
**MANUFACTURERS**

## Section

- R17-5-601. Definitions
- R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration
- R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration
- R17-5-604. Ignition Interlock Device Certification; Application Requirements
- R17-5-605. Application Processing; Time-frames; Exception
- R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing
- R17-5-607. Cancellation of Certification; Hearing
- Appendix A. Renumbered
- Appendix B. Renumbered
- Appendix C. Renumbered
- R17-5-608. Modification of a Certified Ignition Interlock Device Model
- R17-5-609. Manufacturer Referral to Division-certified Installers; Manufacturer Oversight of its Authorized Installers
- R17-5-610. Installation Verification; Accuracy Check; Noncompliance and Removal Reporting
- Exhibit A. Renumbered
- Exhibit B. Renumbered
- Appendix A. Repealed
- Appendix B. Repealed
- Appendix C. Repealed
- R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Service to Participants
- R17-5-612. Records Retention; Submission of Copies and Quarterly Reports; Periodic Inspections
- R17-5-613. Ignition Interlock Investigator

**ARTICLE 7. IGNITION INTERLOCK DEVICE**  
**INSTALLERS**

*Article 7, consisting of Sections R17-5-701 through R17-5-708, made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Article 7 introduction added for clarification per the Department's request (Supp. 09-2).*

*Article 7, consisting of Sections R17-5-701 through R17-5-706, repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2).*

## Section

- R17-5-701. Definitions
- R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements
- R17-5-703. Ignition Interlock Device Installer Bond Requirements
- Exhibit A. Repealed
- Exhibit B. Repealed
- R17-5-704. Division-certified Installer Responsibilities
- R17-5-705. Installer-certified Service Representatives
- R17-5-706. Accuracy and Compliance Check; Requirements

- R17-5-707. Certification and Inspection of Service Centers; Application
- R17-5-708. Cease and Desist; Denial or Cancellation of Certification; Appeal; Hearing

## ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY

*Article 8, consisting of Sections R17-5-801 through R17-5-811, made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).*

### Section

- R17-5-801. Definitions
- R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability
- R17-5-803. Insurance Company Reportable Activity
- R17-5-804. Record Matching Criteria for a Vehicle-specific Policy
- R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy
- R17-5-806. Division-authorized EDI Reporting Methods; Reporting Schedule
- R17-5-807. X12 Data Format for Policy Receipt and Error Return
- R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance
- R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing
- R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability
- R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability

## ARTICLE 1. GENERAL PROVISIONS

### ARTICLE 2. MOTOR CARRIERS

#### R17-5-201. Definitions

In addition to the definitions provided under A.R.S. §§ 28-3001 and 28-5201, the following definitions apply to this Article unless otherwise specified:

“Audit” means any inspection of a transporter’s motor vehicle, equipment, books, or records to determine compliance with this Article and A.R.S. Title 28, Chapter 14.

“Co-applicant” means an employer or potential employer.

“Danger to public safety” means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.

“Director” means the Director of the Arizona Department of Transportation or the Director’s designated agent.

“Executive Hearing Office” means the Arizona Department of Transportation’s Executive Hearing Office.

“Medical waiver evaluation summary” means the form, provided by the Department, to be completed by either a board qualified or board certified orthopedic surgeon or physiatrist and mailed to the Department, at the address provided on the form, on behalf of an Arizona intrastate medical waiver applicant.

“Physiatrist” means a doctor of medicine specialized in physical medicine and rehabilitation.

“Transporter” means any person, driver, motor carrier, shipper, manufacturer, or motor vehicle, including any motor vehicle transporting a hazardous material, hazardous substance, or hazardous waste, subject to this Article and A.R.S. Title 28, Chapter 14.

“Violation” means any conduct, act, or failure to act required or prohibited under this Article and A.R.S. Title 28, Chapter 14.

“Vision examination report” means a form provided by the Department to be completed by an ophthalmologist or a licensed optometrist on behalf of a driver or driver applicant and mailed to the Department, at the address provided on the form, for use in determining whether or not a medical condition affects the driver’s, or driver applicant’s, ability to safely perform the functional skills involved with driving a motor vehicle.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

#### R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Applicability

- A. The Department incorporates by reference 49 CFR 40, 379, 382, 383, 390, 391, 392, 393, 395, 396, 397, and 399, revised as of October 1, 2009, and no later amendments or editions, as amended under this Article. The incorporated material is on file with the Department and is available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.
- B. The sections of 49 CFR incorporated under subsection (A) apply as amended under this Article to all intrastate and interstate motor carriers operating in Arizona, except as provided under subsection (C).
- C. The intrastate operator of a tow truck with a gross vehicle weight rating of 26,000 pounds or less is exempt from the requirements of 49 CFR 390 through 399, except that the driver is subject to the physical qualifications and examination requirements of 49 CFR 391, subpart E.

#### Historical Note

New Section recodified from R17-4-435 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2679, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

#### R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General

- A. 49 CFR 390.3, General applicability, is amended as follows: Paragraph (a) is amended to read: Regulations incorporated in this section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be placarded as prescribed under R17-5-209.
- B. 49 CFR 390.5, Definitions. The definitions listed under 49 CFR 390.5 are amended as follows: “Commercial Motor Vehicle” or “CMV” has the same meaning as prescribed under A.R.S. § 28-5201.

“Special agent” means an officer or agent of the Department, the Department of Public Safety, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona’s Motor Carrier Safety requirements.

“State” means a state of the United States or the District of Columbia.

“Tow truck,” as used in the definition of emergency under 49 CFR 390.5, has the same meaning as prescribed under A.A.C. R13-3-701.

**C. 49 CFR 390.23, Relief from regulations.**

1. Paragraph (a)(2), Local emergencies, is amended by adding:

When a local emergency exists that justifies an exemption from parts 390 through 399 of this chapter, a motor carrier may request the exemption by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, Arizona 85005. The Arizona Department of Public Safety may grant the exemption with or without restrictions as necessary to provide vital service to the public.

2. Paragraph (a)(2)(i)(A) is amended to read:  
An emergency has been declared by a federal, state or local government official having authority to declare an emergency; or an emergency situation exists under A.R.S. § 28-5234(B); or

**D. 49 CFR 390.25, Extension of relief from regulations - emergencies, is amended by adding:**

A motor carrier seeking to extend a period of relief from these regulations may request the extension by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, Arizona 85005. The Arizona Department of Public Safety may grant the extension with any restrictions it considers necessary to provide vital service to the public.

**Historical Note**

New Section recodified from R17-4-435.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 2636, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-204. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors**

- A.** 49 CFR 391.11, General qualifications of drivers. Paragraph (b)(1) is amended to read:  
Is at least 21 years of age for interstate operation; or is at least 18 years of age for operations restricted to intrastate transportation not involving the transportation of a reportable quantity of hazardous substance, hazardous waste required to be manifested, or hazardous material in an amount requiring a vehicle to be placarded as prescribed under R17-5-209.
- B.** 49 CFR 391.51, General requirements for driver qualification files. Paragraph (b)(8) is amended by adding:

“; or a copy of the Arizona intrastate medical waiver, if a waiver is granted by the Director as prescribed under R17-5-208.”

**Historical Note**

New Section recodified from R17-4-435.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-205. Repealed**

**Historical Note**

New Section recodified from R17-4-435.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Section repealed by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-206. Motor Carrier Safety: 49 CFR 392 - Driving of Commercial Motor Vehicles**

49 CFR 392.5, Alcohol prohibition. Paragraph (e) is amended by adding:

Drivers who violate the terms of an out-of-service order as prescribed under this section are also subject to the provisions and sanctions of A.R.S. § 28-5241.

**Historical Note**

New Section recodified from R17-4-435.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-207. Civil Penalties**

To determine the amount of civil penalty for repeat findings of responsibility for the same class of violations involving vehicles required to be placarded, the higher level of civil penalty as prescribed under A.R.S. § 28-5238 applies.

**Historical Note**

New Section recodified from R17-4-435.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3).

**R17-5-208. Commercial Driver License Intrastate Medical Waiver; Intrastate Alternative Physical Qualification Standards for the Loss or Impairment of Limbs or Monocular Vision; Federal Diabetes Exemption Program**

- A.** A person who is not physically qualified to drive a commercial motor vehicle in interstate commerce due to loss of limb, limb impairment, or monocular vision, as provided under 49 CFR 391.41(b)(1), (b)(2), or (b)(10), may operate a commercial motor vehicle in intrastate commerce if granted an intrastate medical waiver by the Director.
- B.** A person eligible to apply for an intrastate medical waiver under subsection (A) shall:
  1. Meet all other requirements under 49 CFR 391.49(c), Alternative Physical Qualification Standards for the Loss or Impairment of Limbs; and
  2. Apply to the Department as prescribed under subsection (C).
- C.** A driver applicant, or a driver applicant jointly with the motor carrier co-applicant that will employ the driver applicant, may

complete and submit an intrastate medical waiver application to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, which shall:

1. Identify the applicant:
  - a. Name and complete address of the driver applicant;
  - b. Name and complete address of the motor carrier co-applicant;
  - c. U.S. Department of Transportation motor carrier identification number, if known; and
  - d. A description of the driver applicant's limb or visual impairment as applicable to the type of waiver being requested;
2. Describe the type of operation the driver applicant will be employed to perform, if the information is known:
  - a. Average period of time the driver will be driving or on duty, per day;
  - b. Type of commodities or cargo to be transported;
  - c. Type of driver operation (i.e., sleeper team, relay, owner operator, etc.); and
  - d. Number of years experience operating each type of commercial motor vehicle requested in the intrastate medical waiver application and total years of experience operating all types of commercial motor vehicles;
3. Describe the commercial motor vehicles the driver applicant intends to drive:
  - a. Truck, truck tractor, or bus make, model, and year (if known);
  - b. Drive train:
    - i. Transmission type (automatic or manual - if manual, designate number of forward speeds);
    - ii. Auxiliary transmission (if any) and number of forward speeds; and
    - iii. Rear axle (designate single speed, two-speed, or three-speed);
  - c. Type of brake system;
  - d. Steering, manual or power assisted;
  - e. Description of types of trailers (i.e., van, flatbed, cargo tank, drop frame, lowboy, or pole);
  - f. Number of semitrailers or full trailers to be towed at one time;
  - g. For commercial motor vehicles designed to transport passengers, indicate the seating capacity of the commercial motor vehicle; and
  - h. Description of any modifications made to the commercial motor vehicle for the driver applicant, attach photographs where applicable;
4. Include a certification statement:
  - a. The co-applicant motor carrier shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391; or
  - b. In the case of a unilateral application, the driver applicant shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391; and
5. Document the signature and date signed:
  - a. The driver applicant's signature in the case of a unilateral application; or
  - b. The motor carrier official's signature and title if the application has a co-applicant. Depending on the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.

**D.** The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) or (2) shall be accompanied by:

1. A copy of the medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
2. A medical waiver evaluation summary completed by either a board qualified or board certified physiatrist or orthopedic surgeon. The co-applicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform:
  - a. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) shall include:
    - i. An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a commercial motor vehicle; and
    - ii. A statement by a board qualified or board certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately when the intrastate medical waiver is requested due to a loss or impairment of limbs;
  - b. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(2) shall include:
    - i. An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;
    - ii. An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and
    - iii. A statement by a board qualified or board certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately;
3. A description of the driver applicant's prosthetic or orthotic device worn, if any;
4. A skill performance evaluation performed by a federally certified state commercial driver license examiner;
5. Application for employment:
  - a. A copy of the driver applicant's application for employment completed pursuant to 49 CFR 391.21; or
  - b. A copy of the unilateral applicant's application for employment from where the unilateral applicant most recently held employment as a commercial motor vehicle driver. If not previously employed as a commercial motor vehicle driver, a statement of explanation to that effect; and
6. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained.

**E.** The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(10) shall be accompanied by:



## Department of Transportation – Commercial Programs

1. A copy of the medical examination report and medical examination certificate completed pursuant to 49 CFR 391.43;
  2. A current vision examination report, which an ophthalmologist or a licensed optometrist:
    - a. Completes on a form provided by the Department;
    - b. Uses to indicate that the applicant has distant visual acuity of at least 20/40 (Snellen), with or without a corrective lens, in one eye, and the applicant's dominant eye has a visual field of at least 70° peripheral measurement in one direction and 35° in the opposite direction of the horizontal meridian and the ability to distinguish the colors of a traffic signal or device showing standard red, green, and yellow, as applicable to the type of medical waiver being requested; and
    - c. Mails to the Department at the address provided on the form;
  3. A skill performance evaluation administered by a federally certified state commercial driver license examiner at a commercial driver license facility of the Department;
  4. Application for employment:
    - a. A copy of the driver applicant's application for employment completed pursuant to 49 CFR 391.21; or
    - b. A copy of the unilateral applicant's application for employment from where the unilateral applicant most recently held employment as a commercial motor vehicle driver. If not previously employed as a commercial motor vehicle driver, a statement of explanation to that effect;
  5. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained; and
  6. A certification statement by the driver applicant indicating that the driver applicant has driven the type of vehicle for which the waiver is being requested for at least two of the previous five years.
- F.** Agreement. A motor carrier that employs a driver subject to an intrastate medical waiver granted by the Director under subsection (A), whether the waiver was granted unilaterally to the driver, or to the driver and co-applicant motor carrier, shall agree to:
1. Report to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, in writing, any suspension, revocation, or withdrawal of the subject driver's driver license or permit, and any accident, arrest, or conviction involving the driver within 30 days after the occurrence;
  2. Provide to the Department's Medical Review Program, on request, any documents and information pertaining to the driving activities, accidents, arrests, convictions, and driver license or permit suspensions, revocations, or withdrawals involving the subject driver;
  3. Evaluate the subject driver with a road test using the trailer types the motor carrier intends the driver to transport, or alternatively accept a certificate of a trailer road test from another motor carrier if the trailer types are similar, or accept the trailer road test completed during the skill performance evaluation if trailer types are similar to that of the prospective motor carrier;
  4. Evaluate the subject driver for those non-driving safety related job tasks associated with each type of trailer that will be used and any other non-driving safety related or job related tasks unique to the operations of the employing motor carrier; and
5. Use the subject driver to operate the type of commercial motor vehicle indicated on the intrastate medical waiver only when the driver is in compliance with the conditions and limitations of the waiver.
- G.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall supply each employing motor carrier with a copy of the intrastate medical waiver.
- H.** The Department may require the driver applicant to demonstrate the driver applicant's ability to safely operate the commercial motor vehicle the driver intends to drive.
- I.** After successful completion of a skill performance evaluation, if the Director grants an intrastate medical waiver under subsection (A), the Department shall mail to the driver applicant and co-applicant motor carrier (if applicable) written approval of the intrastate medical waiver describing the terms, conditions, and limitations of the waiver.
- J.** The intrastate medical waiver granted by the Director under subsection (A) shall identify:
1. The power unit (bus, truck, truck tractor) for which the waiver is granted; and
  2. The trailer type used in the skill performance evaluation, without limiting the waiver to that specific trailer type.
- K.** A subject driver may use the intrastate medical waiver with other trailer types if the driver successfully completes:
1. A trailer road test administered by the motor carrier under subsection (F)(3) for each type of trailer, and
  2. A non-driving safety related or job related task evaluation administered by the motor carrier under subsection (F)(4).
- L.** The intrastate medical waiver granted by the Director under subsection (A) shall be:
1. Valid for a period of not more than two years from the date of issuance;
  2. Renewable 30 days prior to the expiration date; and
  3. Transferable from an original motor carrier co-applicant employer to a new motor carrier employer upon written notification to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, stating the new employer's name and the type of equipment to be driven.
- M.** An intrastate medical waiver granted by the Director under subsection (A) to a driver applicant for monocular vision under subsection (E), shall prohibit the subject driver from transporting:
1. Passengers for hire, and
  2. Reportable quantities of hazardous substances, manifested hazardous wastes, and hazardous material required to be placarded.
- N.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall have the intrastate medical waiver (or a legible copy) in the subject driver's possession while on duty.
- O.** The motor carrier employing a subject driver shall maintain a copy of the intrastate medical waiver in its driver qualification file and retain the copy in the motor carrier's file for a period of three years after the driver's employment is terminated.
- P.** A driver applicant, or a driver applicant jointly with a motor carrier co-applicant whose principal place of business is located in Arizona, may renew an intrastate medical waiver by submitting to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100, an intrastate medical waiver renewal application. The intrastate medical waiver renewal application shall contain the following:

1. Name and complete address of the motor carrier currently employing the applicant;
  2. Name and complete address of the subject driver;
  3. Total miles driven under the current intrastate medical waiver;
  4. Number of accidents incurred while driving under the current intrastate medical waiver, including the date of each accident, number of fatalities, number of injuries, and the estimated dollar amount of any property damage;
  5. A current medical examination report;
  6. A medical waiver evaluation summary, as prescribed under subsection (D)(2), if an unstable medical condition exists;
  7. A copy of the subject driver's current state motor vehicle driving record for the period of time the current intrastate medical waiver has been in effect;
  8. Notification of any change in the type of tractor the driver will operate;
  9. Subject driver's signature and date signed; and
  10. Motor carrier co-applicant's signature and date signed (if applicable).
- Q.** Falsifying information on an intrastate medical waiver application or an intrastate medical waiver renewal application or other information required by this Section of either an applicant or a co-applicant motor carrier is prohibited.
- R.** The Director may deny an application for the intrastate medical waiver or may grant the waiver in whole or in part and issue the waiver subject to such terms, conditions, and limitations as the Director deems consistent with the public interest.
- S.** The Director may revoke an intrastate medical waiver after providing, to the person to whom it was issued, written notice of the proposed revocation and a reasonable opportunity to request a hearing.
- T.** If the enforcement of any provision of this Section would result in the loss or disqualification of federal funding for any state agency or program, that provision is invalid.

#### Historical Note

New Section recodified from R17-4-435.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

#### **R17-5-209. Hazardous Materials Transportation: Incorporation of Federal Regulations; Applicability**

##### **A.** Incorporation of federal regulations.

1. As relevant to the transportation of hazardous materials by highway, the Department incorporates by reference, as amended under this Section, the following Parts of the Federal Hazardous Materials Regulations; revised as of October 1, 2009, and no later amendments or editions, as 49 CFR - Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Pipeline and Hazardous Materials Safety Administration, Department of Transportation:
  - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and
  - b. Subchapter C - Hazardous Materials Regulations; Parts:
    - i. 171 - General information, regulations, and definitions;
    - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications,

- emergency response information, training requirements, and security plans;
- iii. 173 - Shippers - general requirements for shipments and packagings;
- iv. 177 - Carriage by public highway;
- v. 178 - Specifications for packagings; and
- vi. 180 - Continuing qualification and maintenance of packagings.

2. The material incorporated by reference under this subsection is on file with the Department and is available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.

##### **B.** Application and exceptions.

1. Application.
  - a. Regulations incorporated under subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined under A.R.S. § 28-5201.
  - b. Regulations incorporated under subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
2. Exceptions. An authorized emergency vehicle, as defined under A.R.S. § 28-101, is excepted from the provisions of this Section.

##### **C.** Amendments. The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:

1. Part 171. General information, regulations, and definitions. Section 171.8, Definitions and abbreviations. Section 171.8 is amended by revising the definitions for "Carrier," "Hazmat employer," and "Person," and adding a definition for "Highway" as follows:

"Carrier" means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material."

"Hazmat employer" means a person who uses one or more employees in connection with: transporting hazardous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined under A.R.S. § 28-5201 and includes the state, political subdivisions, and state public authorities."

"Highway" means a public highway defined under A.R.S. § 28-5201."

"Person" has the same meaning as defined under A.R.S. § 28-5201."

2. Part 172. Hazardous materials table, special provisions, hazardous materials communications, emergency response information, training requirements, and security plans. Section 172.3 Applicability. Paragraph (a)(2) is amended to read: "Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway."

3. Part 177. Carriage by public highway.
  - a. Section 177.800, Purpose and scope of this part and responsibility for compliance and training.  
In paragraph (a), the phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway.”
  - b. Section 177.802, Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed under A.R.S. §§ 28-5204 and 28-5231.”

**Historical Note**

New Section recodified from R17-4-436 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1262, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-210. Motor Carrier Safety: Public Service Corporation, Political Subdivision of this State that is Engaged in Rendering Public Utility Service, or Railroad Contacting State Officials in an Emergency**

- A. A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall notify Commercial Vehicle Enforcement, through the Arizona Department of Public Safety Duty Office, that an emergency situation under A.R.S. § 28-5234(B) exists. Notification shall be made on a form provided by the Arizona Department of Public Safety and sent by fax transmission to (602) 223-2929 immediately, but in no case longer than three hours from the time the public service corporation, political subdivision of this state that is engaged in rendering public utility service, or railroad determines that the emergency situation exists. The information to be provided includes:
  1. Date of the emergency situation,
  2. Time that the emergency situation started,
  3. Description of the emergency situation,
  4. Location of the emergency situation,
  5. Projected duration of the emergency situation,
  6. Authorized party's signature for determining that an emergency situation exists,
  7. Name and contact number of responsible party in the field, and
  8. The utility's self-generated Emergency ID or tracking number.
- B. A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall maintain supporting documentation for no less than three years from the date of an emergency situation and shall make the supporting documentation available to a special agent upon request. Supporting documentation includes:
  1. A list of drivers involved in the emergency situation;
  2. The duration of the emergency situation;
  3. The off-duty time provided for the affected drivers after the emergency situation concluded; and

4. Any United States Department of Transportation recordable accidents, as defined under 49 CFR 390.5, which occurred during the emergency situation.

- C. After an emergency situation terminates and a driver returns to the principal place of business, the driver shall not drive a commercial motor vehicle unless the driver remains off duty under 49 CFR 395.

**Historical Note**

New Section recodified from R17-4-438 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Section repealed by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-211. Motor Carrier Safety: Inspection, Enforcement, Sanction**

- A. Scope. This Section applies to any transporter subject to:
  1. R17-5-201 through R17-5-209; and
  2. A.R.S. Title 28, Chapter 14.
- B. Audits.
  1. The Department may conduct an audit for cause or without cause.
  2. The Department may enter the premises of any transporter for the purpose of conducting an audit.
  3. The Department may inspect a motor vehicle:
    - a. Within Arizona at:
      - i. A transporter's place of business, or
      - ii. Any other in-state location, or
    - b. Outside Arizona at a transporter's place of business.
  4. A transporter shall make records available for audit:
    - a. During the transporter's normal business hours, and
    - b. In a specific location as follows:
      - i. The transporter's Arizona place of business, or
      - ii. Either an Arizona location designated by the Director or the transporter's out-of-state place of business.
  5. The Department shall charge a transporter in advance for all expenses to be incurred in performance of an out-of-state audit.
- C. Violation notification. Within five days after audit completion, the Department shall notify an audited transporter in writing of all violations. The notification shall specify a deadline date for remedy of all violations.
- D. Obligation to remedy violations: After receipt of a violation notification, a transporter shall remedy all violations by the specified date to comply with:
  1. R17-5-201 through R17-5-209; and
  2. A.R.S. Title 28, Chapter 14
- E. Noncompliance: Failure to remedy violations. If the Department determines a transporter did not remedy a violation by the date specified in a violation notice, the Department shall initiate further enforcement action as prescribed under A.R.S. §§ 28-5237 and 28-5238.
- F. Danger to public safety. If the Director determines a written violation report establishes probable cause of danger to public safety, the Director shall issue an order by 5:00 p.m. the next business day suspending the Arizona registration of the motor vehicle owned or leased by the transporter, or a driver's Arizona driver license or nonresident driving privilege.

**Historical Note**

New Section recodified from R17-4-439 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by

final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

#### **R17-5-212. Motor Carrier Safety: Hearing Procedure**

##### **A. Scope.**

1. This Section applies only to a motor carrier enforcement action under:
  - a. R17-5-201 through R17-5-209; and
  - b. A.R.S. Title 28, Chapter 14.
2. In an enforcement hearing involving a manufacturer, motor carrier, shipper, or driver under this Section, the Department shall follow the procedures prescribed under 17 A.A.C. 1, Article 5, except as modified under subsections (B) through (I).

##### **B. Initiation of proceedings, pleadings.**

1. The Director shall initiate a hearing under this Section by:
  - a. Signing and serving a complaint in the form prescribed under subsection (G) that cites a manufacturer, motor carrier, shipper, or driver for an alleged infraction; and
  - b. Serving the cited manufacturer, motor carrier, shipper, or driver with a hearing notice within 15 days after the date the complaint is signed.
2. After the Director signs a complaint, the Executive Hearing Office shall act on the Director's behalf through completion of an administrative proceeding under this Section.

##### **C. Order to show cause.**

1. When a complaint is served, the Executive Hearing Office shall immediately issue a summons for a respondent to appear at an administrative hearing to explain why the Executive Hearing Office should not grant the requested relief.
2. The Executive Hearing Office shall hold a hearing under this Section within 60 days after the date the complaint is served.
3. The parties may resolve a complaint before the hearing date.
  - a. The respondent shall file any settlement condition with the Executive Hearing Office.
  - b. Complaint settlement terminates the right of both petitioner and respondent to receive additional administrative review.

##### **D. Service.**

1. The Executive Hearing Office shall:
  - a. Send an order to show cause by certified mail as prescribed under A.R.S. § 28-5232(B), and
  - b. Maintain a proof-of-service file.
2. The date of service is the date of mailing.

##### **E. Answer.**

1. Within 15 days after service of a complaint, a respondent shall respond to the complaint by:
  - a. Filing a written answer with the Executive Hearing Office; and
  - b. Serving the Assistant Attorney General, Transportation Division, representing the Department with a copy of the answer.
2. A respondent's written answer shall contain:
  - a. An admission or denial of each complaint allegation, and
  - b. A list of all defenses that the respondent intends to raise during the hearing.
3. In a hearing, the Executive Hearing Office shall consider any allegation not denied in the answer as an admission to the allegation.

##### **F. Default.**

1. The Executive Hearing Office shall find in default a respondent that fails to file an answer within 15 days after the service date of a complaint.
2. If the Executive Hearing Office finds a respondent in default, the Executive Hearing Office shall:
  - a. Consider the respondent's default as an admission of all complaint allegations unless the default is cured under subsection (F)(3), and
  - b. Enter an order granting the relief requested in the Department's complaint.
3. A respondent may cure a default by following Rule 60(c) of the Arizona Rules of Civil Procedure.

##### **G. Emergency motor carrier hearings; scope.**

1. The Director shall initiate an emergency motor carrier hearing process according to R17-5-211(E) by:
  - a. Issuing a complaint and order to show cause according to the hearing scope under A.R.S. § 28-5232(C); and
  - b. Ordering immediate suspension of the registration of the motor vehicle owned or leased by the manufacturer, shipper, or motor carrier, or the driver license or driver's nonresident operating privilege, as prescribed under A.R.S. § 28-5232(A).
2. The Executive Hearing Office shall set an emergency hearing date to occur within 30 days after the date on the complaint.
3. The complaint and order to show cause shall contain the following:
  - a. The Department as the designated petitioner on the state's behalf;
  - b. The respondent's name and the basis of fact for the complaint, including a listing of any alleged violation of Department statute or rule;
  - c. The relief sought by the Department; and
  - d. An original copy of the written violation notice issued by a law enforcement agency that was served upon the respondent.
4. At an emergency motor carrier hearing, an Executive Hearing Office administrative law judge shall determine whether the respondent:
  - a. Was operating on a public highway and the operation created a danger to the public safety,
  - b. Was responsible for the danger, and
  - c. Is responsible for preventing or remedying further danger to public safety.
5. Upon a finding that the factors in subsection (G)(4) are present, the administrative law judge shall order that the motor carrier's registration and operator's driver license or driver's nonresident operating privilege suspension continue.
6. If a respondent fails to appear at an emergency motor carrier hearing, any suspension previously ordered remains in effect until the respondent appears and meets all requirements under A.R.S. § 28-5232(F).

##### **H. Upon a finding that the factors in subsection (G)(4) are present, the Director shall impose a civil penalty as prescribed under A.R.S. §§ 28-5232, 28-5237 and 28-5238.**

##### **I. A respondent may request judicial review of a motor carrier safety hearing as prescribed under A.R.S. § 28-5239.**

#### **Historical Note**

New Section recodified from R17-4-440 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4230, effective November 15, 2002 (Supp. 02-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

### ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS

#### R17-5-301. Reserved

#### R17-5-302. Commercial driving schools and instruction licensing

##### A. Definitions. The following words and phrases have been defined as follows:

1. "Commission": The Arizona Highway Commission.
2. "Instructor": Any person, whether acting for himself as operator of a professional driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for an operator or chauffeur's license or learner's permit; and any person who supervises the work of any other such instructor.
3. "Professional driver training school or school": A business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, to prepare an applicant for an examination given by the state for an operator's or chauffeur's license or learner's permit and charging a consideration or tuition for such services.
4. "Superintendent": The superintendent of the Motor Vehicle Division.
5. "Suspension": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is temporarily withdrawn.
6. "Revocation": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is terminated indefinitely.
7. "Operator": The owner of a professional driver training school or one who holds himself out as offering, or one who otherwise offers, for a consideration or tuition, any service or services enumerated in A.R.S. § 32-2351, subsection (3).
8. "Doing business": Soliciting for the purpose of offering, or performing any or all of the Acts set forth in A.R.S. § 32-2351(2) and (3).

##### B. General provisions:

1. Administration and enforcement. The Commission, through the Superintendent of Motor Vehicle Division, shall administer and enforce the provisions of this Chapter.
2. Schools and instruction subject to licensing and rules. Section 1, Title 32, Chapter 23 and these rules shall apply to driving schools of all kinds as defined in these rules and to all persons giving instruction in driving schools or giving instruction in the operation of motor vehicle as defined in "instructor."
3. Use of driver training vehicle. No operator of a driving school shall lease, rent, or by any other arrangement permit the use of a vehicle used in driver training by another person when said vehicle is being operated by a student.
4. Employment of Motor Vehicle Division or Traffic Safety employees. No school will be permitted to engage the service of an employee of the Motor Vehicle Division or Traffic Safety as an instructor, agent or employee.

##### C. Licenses:

1. Requirements for an original license to operate a professional driver training school and a license to give driving instructions.
  - a. In general two types of licenses will be issued. A license to operate a driving school and a license for

an individual to give driving instruction as an employee of a school.

- b. A license to operate a driving school shall include the right to give driving instruction only when the licensee is licensed as an instructor or employs a person who is licensed as an instructor in accordance with all the requirements of law.
  - c. A copy of the instructor's license must be displayed in the office of each school he may represent.
  - d. The license issued by the Division to operate a driving school shall be prominently displayed in the place of business of the driving school.
  - e. The instructor's identification card shall be in the possession of the licensee at all times that he instructs or actually accompanies a student. The instructor must surrender this card to the Division upon becoming inactive or when his license is cancelled, suspended or revoked.
  - f. A license certificate shall be issued to each driving school for each instructor employed by such school. This certificate shall be prominently displayed in the place of business along with the license to operate such school.
  - g. In case of loss or mutilation, duplicate license or instructor's identification card may be issued by the Division upon submission of a properly signed and completed application accompanied by the required fee and an affidavit setting forth the circumstances. The affidavit must show the date the license or identification card was lost, mutilated, or destroyed, and the circumstances involving the loss, mutilation, or destruction.
  - h. A license to operate a driving school and any instructor's license shall be nontransferable.
  - i. Each license will be effective on the date of issuance and will expire on the last day of the calendar year.
  - j. No license fee will be prorated in the event the license is issued less than 12 calendar months prior to expiration.
2. Application for original professional driving school license.
    - a. Before any license is issued an application shall be made in writing to the Division on a form prepared and furnished by the Division, which shall include the following:
      - i. The name of the school together with ownership and controlling officers thereof.
      - ii. The application for a driving school license shall include the official name of the school and the location of its established place of business.
      - iii. The specified course of instruction which will be offered.
      - iv. The place or places where such instruction will be given.
      - v. The qualifications of the instructors and supervisors in each specific field together with their names, addresses and other information which may be required by the superintendent.
      - vi. Samples of any and all contracts to be used by the school.
      - vii. Sample copies of all forms of receipts to be used by the school.
      - viii. Copies of all forms used by the school which will be furnished or delivered to students.
      - ix. Driver training schools proposing to give instructions pertaining to the operation of

- motorcycles, buses, and trucks other than 1/2- or 3/4-ton pickups must submit their complete curriculum for approval along with their application.
- b. Every application for a license to operate driver training school must be accompanied by a fee of \$200.00. An applicant doing business in more than one location must secure a license for each branch office. An application for a branch license must be accompanied by a fee of \$50.00.
  - c. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the present school license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to the expiration date.
  - d. Each driving school shall submit to the Division, upon application for a license or a renewal license, a complete list of all personnel in its organization and shall indicate those in the staff who will be instructing. When changes are made in instructor personnel, notification shall be made to the Division within 10 days thereafter.
  - e. An individual, association, partnership, or corporation may qualify for a license to operate a professional driver training school through himself, one of its partners, officer of the corporation or managing employee. The qualifying party shall be a regular and bona fide employee whose principal employment is with the employer for whom he has qualified and must have active and direct supervision and control of all operations necessary to secure full compliance with all the provisions of Arizona Revised Statutes Title 32, Chapter 23 and these rules.
3. Application for driving school instructor's license.
    - a. Application for an instructor's license shall be made upon a form supplied by the Division, which form may require the following disclosures and information.
      - i. True full names
      - ii. Residence addresses
      - iii. Fingerprint card
      - iv. Employment histories
      - v. Personal references
      - vi. Such other information which the Division deems pertinent to determine the applicant's good moral character. No instructor's license shall be issued except upon compliance with all the provisions of these rules and the provisions of A.R.S. §§ 32-2351 through 32-2391.
    - b. The application for an instructor's license shall include the official name of the school at which the applicant will be an instructor. The licensed instructor shall notify the Division of his initial employment or of any change of employer within 10 days thereafter.
    - c. Every application for a license as a driving school instructor must be accompanied by a fee of \$10.00.
    - d. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the previous license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to expiration date.
- D. Requirements of applicants for driver training school license and driver training instructors. Every applicant for a license to**
- operate a driving school and every applicant for a license to give instructions in driving motor vehicles shall meet the requirements as set forth below:
- a. Each applicant shall pass an examination given by the Division which may consist of an actual demonstration or a written test or both covering:
    - i. Traffic laws
    - ii. Safe driving practices
    - iii. Operation of motor vehicles
    - iv. Knowledge of teaching methods, techniques, and practices
    - v. Driving school statutes and regulations, business ethics, office procedures, elementary recordkeeping.
  - b. Each applicant must be of good moral character, at least 21 years of age and have the minimum of a high school education or the equivalent.
  - c. Each applicant must hold a valid Arizona driver license.
  - d. Each applicant must have a satisfactory driving record.
  - e. All instructors shall be physically and mentally able to safely operate a motor vehicle and to train others in the operation of motor vehicles. To substantiate this, the superintendent may require a properly signed and completed certificate of medical examination conducted by a person qualified and licensed to practice medicine in Arizona.
- E. Insurance and safety requirements:**
1. All professional school operators shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driving instruction, insuring the liability of the driving school, the driving instructor, and any person taking instruction in at least the following amounts: \$10,000.00 for bodily injury to or death of any one person in any one accident and, subject to said limit for one person, \$20,000.00 for bodily injury to or death of two or more persons in any one accident, and the amount of \$5,000.00 for damage to property of others in any one accident.
  2. Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed by the school with the Division and the certificate shall stipulate that the insurance contract carried by the school provides for cancellation only upon 30 days prior written notice to the Division and shall further include the make, model, year and motor or serial number of every vehicle which will be used for instruction.
  3. When a vehicle is added to or exchanged in a driving school fleet covered under a fleet insurance plan, the licensee shall provide the Superintendent a copy of a policy rider issued by the insurance carrier showing the addition or exchange, with complete descriptions of the vehicles involved.
- F. Place of business:**
1. The established place of business of each driver training school must be regularly occupied and primarily used by that driver training school for the business of giving driving instructions for hire and the business of preparing members of the public for the examination given by the Division for a motor vehicle operator's license.
  2. Each place of business shall be safe and meet all requirements of state law and local ordinances, and the superintendent may require applicants and licenses to provide proof of compliance with local zoning ordinances.

## Department of Transportation – Commercial Programs

3. Each school shall post its office hours in a conspicuous place and shall be open to the public during these hours. In the absence of the operator, the person left in charge of the office during the posted office hours shall be fully qualified and authorized to give pertinent information to the public concerning lessons and accounts, and to give information to any representative of the Division concerning the operation of the school.
  4. When a driving school office is located in an office building, store, or any other physical structure which is not a part of a dwelling, there shall be a clear separation between the driving school business and any other activity housed in the building.
  5. The school's license must be conspicuously displayed.
  6. All records pertaining to the operation of the school shall be maintained in the established place of business and available for inspection during normal business hours.
  7. Every place of business used by each driving school shall provide adequate facilities for any student being given instructions in other than behind-the-wheel driver training.
- G. Branch offices:**
1. A driver training school desiring to open a branch office shall make application on a form prescribed by the Division and accompanied by the required fee of \$50.00. If application is approved, the Division will issue a copy of the license of the principal place of business, appropriately endorsed, for use in the branch office.
  2. This copy must be conspicuously displayed in such branch office at all times.
  3. A branch office may not be removed to a new location without prior approval of the Division.
  4. Should a branch office be discontinued, the branch office copy of the license must be surrendered immediately to the Division.
  5. The branch office must meet all of the requirements of the licensed principal place of business and must be equipped to, and shall perform, substantially the same services apply to the principal place of business.
  6. Branch offices are restricted to the county wherein the principal place of business is located.
- H. Advertising:**
1. A school shall not use any name other than its licensed name for advertising or publicity purposes. Nor shall the school use the word "State" in any part of the school name. A licensed school which advertises, solicits patrons, or conducts the business regulated by A.R.S. § 32-2351 et seq., by the use of or under a name other than the name by which the school was licensed, must apply for and obtain an original license for such school before it may lawfully operate.
  2. No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license, or imply that the school can in any way influence the Division in the issuance of a driver's license or imply that preferential or advantageous treatment from the Division can be obtained.
  3. Schools that are in fact licensed by the Division may in their advertising state they are "LICENSED" but shall not indicate that a school is approved, sanctioned, or in any other way endorsed by the Division.
- I. Professional conduct:**
1. No driving school instructor, employee, or agent will be permitted to accompany any student into any examining office rented, leased, or owned by the Division of Motor Vehicles for the purpose of taking a driver license examination.
  2. No driving school instructor, employee, or agent will be permitted to personally solicit any individual on the premises rented, leased, or owned by the Division of Motor Vehicles for the purpose of enrolling them in any professional driving school.
  3. Violation of any of the provisions of this Article may be grounds for the cancellation, suspension or revocation of an instructor's license or a school's license, subject to the provisions of A.R.S. §§ 32-2373 and 32-2391 and these rules.
- J. Records and contracts:** Every licensee shall maintain the following records:
1. A permanently bound book or a card file setting forth the name, address, contract number, and terms of payment with respect to every person receiving lessons, lectures, tutoring, instructions of any kind or any other service relating to instructions in the operations of a motor vehicle. The book or card file shall also contain records showing the date, type, and duration of all lessons, lectures, tutoring and instructions including the name of the instructor giving such lessons and the tag number, make and model of vehicle used to conduct the training.
  2. A record of all receipts and disbursements.
  3. If a licensee enters into written contracts with any person or group of persons receiving lessons, lectures, tutoring or instructions relating to the operation of a motor vehicle, the original contract must be given to the student or his agent who executes the contract, and a carbon copy of the contract retained as part of the records of the license.
  4. All records must be retained for three years.
- K. Equipment:**
1. All vehicles used for driver training must be equipped with the following:
    - a. Any motor vehicle with an automatic transmission must be equipped with at least a dual braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
    - b. Any motor vehicle equipped with a standard transmission must have at least a dual clutch and braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
  2. All vehicles must be maintained in safe operating conditions at all times.
- L. Suspension, revocation, cancellation and denial of driver training school and driver training instructor licenses:**
1. The superintendent may suspend or revoke the license of any driver training school or driver training instructor:
    - a. If the licensee fails to do anything which is required by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors.
    - b. If the licensee does anything which is prohibited by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools or driver training instructors.
    - c. If the application contains any misstatements or misrepresentations.
  2. No license fee will be refunded in the event a license is suspended or revoked.
  3. The superintendent may deny any application for a driver training school or driver training instructor's license, if the applicant does not qualify for the license under the provisions of A.R.S. Title 32, Chapter 23, or these rules

relating to driver training schools and driver training instructors. Previous revocation, misstatements or misrepresentations may be grounds for denying a license.

- M.** The superintendent, upon determining that grounds for cancellation of a license exist, shall give notice thereof to the licensee in writing, and by the notice shall require the licensee to appear before him at a specified time and place, then and there to show cause why his license should not be cancelled. At the time and place fixed by the superintendent, which shall be not less than 10 days after notice, the licensee shall appear and be heard and may have other persons he desires present and testify at the hearing.

#### Historical Note

New Section recodified from R17-4-512 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

### ARTICLE 4. DEALERS

#### R17-5-401. Reserved

#### R17-5-402. Bond Amounts; Motor Vehicle Dealers, Brokers, and Recyclers Business Licenses

- A.** As prescribed under A.R.S. § 28-4362, the Division shall require a bond in the amount specified for the following motor vehicle business license applicants:
1. \$100,000 from a motor vehicle dealer engaged in selling new or used motor vehicles,
  2. \$25,000 from a wholesale motor vehicle dealer,
  3. \$25,000 from a wholesale motor vehicle auction dealer,
  4. \$25,000 from a motor vehicle broker, and
  5. \$20,000 from an automotive recycler.
- B.** An applicant shall submit a bond in a form prescribed by the Division Director. The Division shall not accept a handwritten bond.

#### Historical Note

New Section recodified from R17-4-240 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2).

#### R17-5-403. Bond Amount; Motor Vehicle Title Service Business License

- A.** As prescribed under A.R.S. § 28-5005, the Division shall require a \$25,000 bond for a motor vehicle title service company applying for a business license.
- B.** An applicant shall submit a bond in a form prescribed by the Division Director. The Division shall not accept a handwritten bond.

#### Historical Note

New Section made by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2).

#### R17-5-404. Dealer Title Requirement for Vehicle Sale

For purposes of A.R.S. § 28-4409(A), the dealer's name shall be recorded on a title certificate as transferee or purchaser.

#### Historical Note

New Section recodified from R17-4-241 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section heading corrected as recodified at 7 A.A.R. 3483 (Supp. 09-2).

#### R17-5-405. Motor Vehicle Dealer Acquisition Contract

- A.** Definitions.
1. "Contract" or "Dealer acquisition contract" has the meaning prescribed under A.R.S. § 28-4410(G)(2).
  2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed in A.R.S. § 28-4301(23).

3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
  4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
  5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
  6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.
- B.** General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a form with contents as prescribed under subsection (C).
- C.** Content. A dealer acquisition contract shall contain the following information:
1. The heading "Dealer Acquisition Contract;"
  2. The dealer's name and dealer license number;
  3. The dealer's business address and telephone number;
  4. The owner's name, address, and telephone number;
  5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
  6. If there is a lien holder:
    - a. The lien holder's name, address, telephone number;
    - b. Lien balance;
    - c. Prepayment penalties, if any; and
    - d. Other information relevant to the terms and conditions of the lien repayment;
  7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (C)(6)(b);
  8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another vehicle;
  9. A statement indicating that the owner is selling and transferring the described vehicle to the dealer;
  10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
  11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
  12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
  13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;
  14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
  15. The date the contract is executed;
  16. The dealer's signature; and
  17. The owner's signature.
- D.** A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- E.** Disposition. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the date the vehicle is sold.



- F. Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.

#### Historical Note

New Section recodified from R17-4-245 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3).

#### R17-5-406. Motor Vehicle Dealer Consignment Contract

##### A. Definitions.

1. "Contract" or "Dealer consignment contract" has the meaning prescribed under A.R.S. § 28-4410(G)(1).
2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed under A.R.S. § 28-4301(23).
3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.

- B. General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (C).

##### C. Content. A dealer consignment contract shall contain the following information:

1. The heading "Dealer Consignment Contract;"
2. The dealer's name and dealer license number;
3. The dealer's business address and telephone number;
4. The owner's name, address, and telephone number;
5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
6. If there is a lien holder:
  - a. The lien holder's name, address, telephone number;
  - b. Lien balance;
  - c. Prepayment penalties, if any; and
  - d. Other information relevant to the terms and conditions of the lien repayment;
7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the lien balance is no greater than that disclosed under subsection (C)(6)(b);
8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
12. The expiration date of the consignment contract;
13. An agreement by the dealer to deliver the vehicle to the owner at a specified location on the date that the contract expires or terminates;

14. An agreement by the owner to pay any specified fees due the dealer upon the return of the vehicle, after the expiration or termination of the consignment contract;
15. The date the contract is executed;
16. The dealer's signature; and
17. The owner's signature.

- D. A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.

- E. Disposition. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the vehicle is sold.

- F. Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.

#### Historical Note

New Section recodified from R17-4-246 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3).

#### R17-5-407. Motor Vehicle Repossession

- A. The Division shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:

1. The vehicle is physically located in this state;
2. A notice of lien is filed with the Division;
3. A completed affidavit from the lienholder is submitted to the Division stating that the vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
  - a. The Vehicle Identification Number (VIN),
  - b. The vehicle model year,
  - c. The vehicle make,
  - d. The registered owner's name,
  - e. The date of repossession,
  - f. The state in which the vehicle is titled,
  - g. The lienholder company name,
  - h. The lienholder agent or representative name,
  - i. Lienholder signature, and
  - j. Notary or Motor Vehicle Division agent signature.

- B. The Division shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3) and (4) and subsection (C) if all of the following apply:

1. The affidavit is submitted by an Arizona licensed dealer, and
2. The Arizona licensed dealer is transferring the title into the dealership's name.

- C. A lienholder may sell a repossessed vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Division. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:

1. The buyer's name;

2. The sale date;
  3. Buyer's street address, including the city, state, and zip code;
  4. Name of new lienholder, if applicable;
  5. New lien date, if applicable;
  6. Odometer certification statement, including odometer reading, and an area for the buyer's name and signature to acknowledge the odometer certification;
  7. A statement that the buyer is aware of the odometer certification made by the seller;
  8. The seller's name;
  9. The seller's notarized signature;
  10. The seller's address, including city, state, and zip code; and
- D.** A completed repossession affidavit as prescribed in this Section is proof of ownership, right of possession, and right of transfer.
- E.** Disclaimer. The Division has no responsibility relating to foreclosure on real property under A.R.S. Title 33, Chapter 7.

**Historical Note**

New Section recodified from R17-4-260 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 3399, effective October 2, 2004 (Supp. 04-3).

**R17-5-408. Resale of a New Motor Vehicle**

- A.** A new motor vehicle dealer, as defined in A.R.S. § 28-4301, that sells a new motor vehicle that was delivered to a previous purchaser, shall provide written notice to the new purchaser under subsection (B).
- B.** A dealer shall ensure that the notice under A.R.S. § 28-4422 contains the following information:
1. The name of the dealership;
  2. A vehicle description, including year, make, and vehicle identification number (VIN);
  3. A statement that the vehicle was delivered to a previous purchaser;
  4. The printed name of the new purchaser; and
  5. The signature of the new purchaser (initials are not acceptable) indicating that the new purchaser has received the notice.
- C.** The new motor vehicle dealer shall:
1. Provide a copy of the notice under subsection (B) to the new purchaser, and
  2. Keep a copy of the signed notice under subsection (B) at the new motor vehicle dealer's established place of business for at least three years.
- D.** The new motor vehicle dealer is not required to submit to the Division the notice under subsection (B) unless otherwise required by state or federal law.
- E.** A new motor vehicle dealer shall not add additional language to the notice that would conflict with, or alter, the intent of the provisions specified in subsection (B).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 225, effective March 11, 2006 (Supp. 06-1).

**ARTICLE 5. MOTOR CARRIER FINANCIAL RESPONSIBILITY****R17-5-501. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-4001, 28-4031, 28-5201, and 28-5431, the following terms apply to this Article, unless the context otherwise requires:

"Binder" means a contract for temporary insurance as described in A.R.S. § 20-1120.

"Initial motor vehicle registration" means the first time a motor carrier registers a specific motor vehicle or a vehicle combination in Arizona.

"Insurance company" means an entity that is in the business of issuing motor carrier liability insurance policies.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

**R17-5-502. Repealed****Historical Note**

New Section recodified from R17-4-226 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-503. Repealed****Historical Note**

New Section recodified from R17-4-226.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-504. Requirement to Submit Proof of Financial Responsibility; Applicability; Procedure; Exception**

- A.** If a person or motor carrier subject to financial responsibility requirements under A.R.S. § 28-4032 does not insure its motor vehicle or vehicle combination through an insurance company that electronically reports to the Department under A.R.S. § 28-4148 and Article 8 of this Chapter, the person or motor carrier shall submit proof of financial responsibility as prescribed in this Section, and in the amount required under A.R.S. § 28-4033(A):
1. On initial motor vehicle registration, or
  2. On written request by the Department.
- B.** An insurance company, its managing general agent, broker, or agent may submit proof of financial responsibility to the Department on behalf of a person or motor carrier.
- C.** As proof of financial responsibility, a person or motor carrier shall submit to the Department a photocopy of:
1. A valid liability insurance policy;
  2. A binder dated within 90 days of filing with the Department;
  3. A completed and signed Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the agency;
  4. A completed and signed Certificate of Liability Insurance form, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the certificate holder; or
  5. A certificate of self-insurance issued by the Department after a person or motor carrier meets the requirements of R17-5-810 and A.R.S. §§ 28-4007 and 28-4135.
- D.** Before a binder submitted as proof of financial responsibility expires, a motor carrier shall submit:
1. A binder from an insurance company other than the insurance company named in the first binder; or
  2. Proof of financial responsibility listed in subsections (C)(1) or (C)(3) through (5).

- E. A person or motor carrier that maintains a valid USDOT number and files proof of financial responsibility with the Federal Motor Carrier Safety Administration under 49 CFR 387 is not required to submit additional proof of financial responsibility under this Section, except on written request by the Department.

#### Historical Note

New Section recodified from R17-4-445 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

#### R17-5-505. Repealed

#### Historical Note

New Section recodified from R17-4-446 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

#### R17-5-506. Repealed

#### Historical Note

New Section recodified from R17-4-447 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Repealed by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

#### R17-5-507. Repealed

#### Historical Note

New Section recodified from R17-4-448 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

### ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS

#### R17-5-601. Definitions

In addition to the definitions under A.R.S. § 28-1301, in this Article and A.A.C. R17-4-408, unless the context otherwise requires:

“Alcohol” means ethyl alcohol, also called ethanol.

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorized installer” means a person or entity appointed by a manufacturer, and certified by the Division, to install and service a certified ignition interlock device model provided by the manufacturer.

“Breath alcohol test” means analysis of a sample of the person’s expired alveolar breath to determine alcohol concentration.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

“Cancellation” means the withdrawal of a certification granted by the Division under this Article, which prohibits a previously certified ignition interlock device manufacturer, its authorized installer, or the authorized installer’s service center from offering, installing, or servicing an ignition interlock device under Arizona law.

“Certification” means a status granted by the Division under this Article, which permits a certified ignition interlock device manufacturer, an authorized installer, or an authorized installer’s service center to offer, install, or service an ignition interlock device under Arizona law.

“Customer number” means the system-generated, or other distinguishing number, assigned by the Division to each person conducting business with the Division. The customer number of a private individual is generally the person’s driver license or non-operating identification license number.

“Data storage system” means a computerized recording of all events monitored by an installed ignition interlock device, which may be reproduced in the form of specific reports.

“Director” means the Assistant Director for the Motor Vehicle Division of the Arizona Department of Transportation or the Assistant Director’s designee.

“Division” means the Arizona Department of Transportation’s Motor Vehicle Division.

“Emergency bypass” means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

“Emergency situation” means a circumstance where the participant declares to a Division-certified installer that the vehicle needs to be moved as a condition of law or the participant has a valid and urgent need to operate the vehicle.

“False sample” means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the participant.

“Filtered breath sample” means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

“Fixed-site service center” means a permanent location operated by an installer for conducting business and providing services related to a certified ignition interlock device.

“Free restart” means a function of a certified ignition interlock device that will allow a participant to restart the vehicle, under the conditions provided in R17-5-603, without having to complete another breath alcohol test.

“Ignition interlock investigator” means a Division representative authorized under R17-5-613 to inspect and monitor ignition interlock device manufacturers, installers, and service centers for continuous compliance with Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5.

“Illegal start” means the starting of a vehicle equipped with an ignition interlock device without successfully completing the required breath alcohol test.

“Independent laboratory” means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to Sections 1 and 2 of the National

Highway Traffic Safety Administration (NHTSA) Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772 to 11787, April 7, 1992.

“Installer” means a manufacturer, a manufacturer’s authorized representative, or a person or entity responsible for the day-to-day operations of a service center, who is certified by the Division to install a certified ignition interlock device and to provide certified ignition interlock device related services to the public.

“Installer-certified service representative” means any individual who has successfully completed all requirements under R17-5-705, and has received certification from an installer to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a specific certified ignition interlock device.

“Interlock” means the mechanism which prevents a motor vehicle from starting when the breath alcohol concentration of a participant meets or exceeds a preset value.

“Lock-out condition” means the operational status of a certified ignition interlock device, which after recording any violation of A.R.S. Title 28, Chapter 4, Article 5, immobilizes a participant’s vehicle by disallowing further operation of the device. The lock-out feature is built into an ignition interlock device through manufacturer software or firmware, and once activated, the device must be re-set by the manufacturer’s authorized installer.

“Manufacturer” means a person or entity that produces a certified ignition interlock device and is certified by the Division to offer the device for installation under Arizona law.

“Manufacturer’s representative” means an individual or entity designated by a manufacturer to represent or act on behalf of the manufacturer of a certified ignition interlock device.

“Material modification” means a change to a certified ignition interlock device that affects the functionality of the device.

“Mobile service center” means the portable operation of an installer, whether contained within a vehicle or temporarily erected on location, which includes all personnel and equipment necessary for an installer to conduct ignition interlock device related business and services, separately and simultaneously, with its parent fixed-site service center.

“Negative result” means a test result indicating that the alcohol concentration is less than the startup set point value.

“NHTSA” means the United States Department of Transportation’s National Highway Traffic Safety Administration.

“NHTSA specifications” means the specifications for breath alcohol ignition interlock devices published at 57 FR 11772 to 11787, April 7, 1992.

“Participant” means a person who is ordered by an Arizona court or the Division to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes an authorized installer’s customer for installation and servicing of the certified ignition interlock device.

“Positive result” means a test result indicating that the alcohol concentration meets or exceeds the startup set point value.

“Purge” means any mechanism which cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

“Reference sample device” means a device containing a sample of known alcohol concentration.

“Retest set point” has the same meaning as startup set point.

“Rolling retest” means an additional breath alcohol test required of the participant at random intervals. This test is in addition to the initial test required to start the vehicle.

“Service center” means a certified ignition interlock device service center operated by an installer who meets and maintains all certification and inspection requirements of the Division under R17-5-707, whether operated on a fixed-site or mobile.

“Startup set point” means the alcohol concentration value, established by the Division under R17-5-603, which is determined by the Division to be the point at which, or above, an ignition interlock device shall disable the ignition of a motor vehicle.

“Violation” means any of several events including, but not limited to, high alcohol concentrations, illegal starts, and failures to perform rolling retests.

“Violation reset” means the unplanned servicing of a certified ignition interlock device and the downloading of information from its data storage system by a service center when required as a result of an over-accumulation of violations.

#### Historical Note

New Section recodified from R17-4-709 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### **R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration**

- A. An ignition interlock device manufacturer shall obtain certification by the Division under this Article before offering an ignition interlock device model for installation under Arizona law.
- B. After receiving Division certification for an ignition interlock device model under R17-5-604, the ignition interlock device manufacturer is effectively certified by the Division to offer its certified ignition interlock device model for installation under Arizona law.
- C. An ignition interlock device manufacturer shall submit a new application to the Division under R17-5-604 for the certification of each new ignition interlock device model the manufacturer intends to offer for installation.
- D. Manufacturer certification issued by the Division under this Article shall automatically expire if:
  1. The manufacturer no longer provides at least one currently certified ignition interlock device model for installation under Arizona law; and
  2. The manufacturer has no pending application on file with the Division for the certification of a device under R17-5-604.
- E. Once a manufacturer’s certification expires, the manufacturer may reapply for certification by submitting a new application to the Division for the certification of a device under R17-5-604.

#### Historical Note

New Section recodified from R17-4-709.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-602 renumbered to R17-5-604; new R17-5-602 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration**

- A.** Accuracy standards. The startup set point value for an ignition interlock device shall be an alcohol concentration of 0.030 g/210 liters of breath. The accuracy of a device shall be 0.030 g/210 liters plus or minus 0.010 g/210 liters. The accuracy shall be determined by analysis of an external standard generated by a reference sample device.
- B.** Alveolar breath sample. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.
- C.** Specificity. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.
- D.** Temperature. A device shall meet the requirements of subsection (A) when used at ambient temperatures of -20° Celsius to 83° Celsius.
- E.** Anticircumvention standards. A device shall be designed so that anticircumvention features will be difficult to bypass.
  1. Anticircumvention provisions shall include, but are not limited to, prevention or preservation of any evidence of cheating by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
  2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.
- F.** Operational features.
  1. A device shall allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test.
  2. A device shall automatically purge alcohol before allowing analysis.
  3. A device shall have a data storage system with the capacity to sufficiently record and maintain a record of the participant's daily driving activities that occur between each regularly scheduled accuracy and compliance check referenced under R17-5-610 and R17-5-706. All daily driving activity records in the device's data storage system shall be maintained by the installer and the service center and made available to the Division upon request as provided under R17-5-612.
  4. A device shall use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute. The manufacturer's software and firmware:
    - a. Shall require device settings and operational features to include, but are not limited to, sample delivery requirements, startup and retest set points, free restart, rolling retest requirements, violation settings and lock-out conditions; and
    - b. Shall not allow modification of the device settings or operational features by a service center or service representative unless the Division approves the modification under subsection (G).
  5. A device shall record all emergency bypasses in its data storage system.
  6. A device shall require a participant to perform a rolling retest within five to 15 minutes after the initial test required to start an engine. The device shall continuously require additional rolling retests at random intervals of up to 45 minutes after each previously requested retest.
    - a. A device shall emit a warning light, tone, or both, to alert a participant that a rolling retest is required.
    - b. A device shall require a participant to perform a new test to restart an engine if it is inadvertently switched off during or after a rolling retest warning.
    - c. A device shall use the startup set point value as its retest set point value.
    - d. A device shall record, in its data storage system, the result of each rolling retest performed by a participant.
    - e. A device shall immediately require another rolling retest each time a participant refuses to perform a requested rolling retest.
  7. Until a participant successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal of the participant to perform the requested rolling retest.
  8. Upon recording a violation of A.R.S. Title 28, Chapter 4, Article 5, the device shall emit a unique cue, either auditory, visual, or both, to warn a participant that the device will enter into a lock-out condition in 72 hours unless reset by the installer.
  9. When a violation results in a lock-out condition, the device shall:
    - a. Immobilize the participant's vehicle;
    - b. Uniquely record the event in the data storage system; and
    - c. Require a violation reset by the installer.
- G.** Modification. No modification shall be made to the design or operational concept of a device after the Division has certified the device for installation under Arizona law.
  1. A software or firmware update required to maintain a device is permissible if the update does not modify the design or operational concept of the device.
  2. Replacement, substitution, or repair of a part required to maintain a device is permissible if the part does not modify the design or operational concept of the device.
  3. If a manufacturer determines that an existing Division-certified ignition interlock device model requires a modification that may affect the operational concept of a device, the manufacturer shall immediately notify the Division.

**Historical Note**

New Section recodified from R17-4-709.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-603 renumbered to R17-5-606; new R17-5-603 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-604. Ignition Interlock Device Certification; Application Requirements**

- A.** A manufacturer shall offer for installation only an ignition interlock device that is certified by the Division under this Section.
- B.** For certification of an ignition interlock device model, a manufacturer shall submit to the Division a properly completed application form that provides:
  1. The manufacturer's name;
  2. The manufacturer's business address and telephone number;
  3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
  4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and

6. The following statements, signed by an authorized representative of the manufacturer and acknowledged by a notary public or Division agent:
  - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
  - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
    - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or its authorized installer relating to the installation and operation of the ignition interlock device; and
    - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
  - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
  - d. A statement that the manufacturer agrees to immediately notify the Division of any change to the information provided on the application form.
- C. A manufacturer shall submit the following additional items with the application form:
  1. A document that provides a detailed description of the ignition interlock device and a photograph, drawing, or other graphic depiction of the device;
  2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
  3. An independent laboratory's report that:
    - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by Sections 1 and 2 of the NHTSA specifications published at 57 FR 11772 to 11787, April 7, 1992. The NHTSA specifications are incorporated by reference and are on file with the Division and the NHTSA Office of Research & Technology (NTS-131), 400 7th St. S.W., Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;
    - b. Provides the independent laboratory's name, address, and telephone number; and
    - c. Provides the name and model number of the ignition interlock device tested;
  4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3) and acknowledged by a notary public or Division agent, that states:
    - a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists;
    - b. The laboratory tested the ignition interlock device in accordance with Sections 1 and 2 of the NHTSA specifications;
    - c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under Sections 1 and 2 of the NHTSA specifications;
    - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
    - e. The laboratory presented accurate test results to the Division;
5. A list of all authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
6. A copy of the complete written instructions the manufacturer will provide to its authorized installers under R17-5-609 for installation and operation of the ignition interlock device for which the manufacturer seeks certification. The written instructions shall include a requirement for the installer to affix, to each certified ignition interlock device installed, a warning label that conforms to the criteria prescribed under R17-5-609, as illustrated on the application form provided by the Division;
7. A copy of the complete written instructions the Manufacturer shall provide to its authorized installers under R17-5-609 for distribution under R17-5-704 to participants and other operators of a vehicle equipped with the ignition interlock device for which the manufacturer seeks certification; and
8. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
  - a. A product liability policy with a current effective date;
  - b. The name and model number of the ignition interlock device model covered by the policy;
  - c. Policy coverage of at least \$1,000,000;
  - d. The manufacturer as the insured and the state of Arizona as an additional insured;
  - e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
  - f. The insurance company will notify the Division at least 30 days before canceling the product liability policy.

#### Historical Note

New Section recodified from R17-4-709.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-604 renumbered to R17-5-607; new R17-5-604 renumbered from R17-5-602 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### R17-5-605. Application Processing; Time-frames; Exception

- A. The Division shall process an application for certification under this Article, and Article 7, only if an applicant meets all applicable application requirements.
- B. The Division shall, within 10 days of receiving an application for certification, provide notice to the applicant that the application is either complete or incomplete.
  1. The date of receipt is the date the Division stamps on the application when received.
  2. If an application is incomplete, the notice shall specifically identify what required information is missing.
- C. An applicant with an incomplete application shall provide all missing information to the Division within 15 days of the date indicated on the notice provided by the Division under subsection (B).
  1. After receiving all of the required information, the Division shall notify the applicant that the application is complete.
  2. The Division may deny certification if the applicant fails to provide the required information within 10 days of the date indicated on the notice.
- D. Except as provided under subsection (F), the Director shall render a decision on an application for certification under this

Article or Article 7, within 45 days of the date indicated on the notice acknowledging receipt of a complete application, provided to the applicant under subsections (B) or (C).

- E. For the purpose of A.R.S. § 41-1073, the Division establishes the following time-frames for processing an application for certification under this Article or Article 7:
1. Administrative completeness review time-frame: 15 days.
  2. Substantive review time-frame: 30 days.
  3. Overall time-frame: 45 days.
- F. Established time-frames may be adjusted by the Division as needed to obtain all external agency approvals required for certifying a new ignition interlock device model submitted by a manufacturer under R17-5-604.

#### Historical Note

New Section recodified from R17-4-709.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-605 renumbered to R17-5-608; new R17-5-605 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing

- A. An application for certification of an ignition interlock device model is complete when the Division receives:
1. From the manufacturer, a properly prepared application form;
  2. From the manufacturer, all additional items required under R17-5-604(C); and
  3. From the Arizona Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets NHTSA specifications.
- B. The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or upon finding any of the following:
1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
  2. The manufacturer's liability insurance coverage is terminated or canceled;
  3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  4. The manufacturer or independent laboratory provided false or inaccurate information to the Division relating to the performance of the ignition interlock device model;
  5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with NHTSA specifications; or
  6. The Division receives a report of device disapproval from an independent laboratory or other external reviewer.
- C. The Division shall mail to the manufacturer, written notification of the certification or denial of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Division's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D. If a manufacturer timely requests a hearing on the Director's decision to deny certification, the Division's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

#### Historical Note

New Section recodified from R17-4-709.05 at 7 A.A.R.

3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-606 renumbered to R17-5-609; new R17-5-606 renumbered from R17-5-603 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### R17-5-607. Cancellation of Certification; Hearing

- A. The Director shall cancel an ignition interlock device model certification and remove the device from its list of certified ignition interlock devices upon finding any of the following:
1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
  2. The manufacturer's liability insurance coverage is terminated or canceled;
  3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  4. The manufacturer or independent laboratory provided false or inaccurate information to the Division relating to the performance of the ignition interlock device model;
  5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with NHTSA specifications;
  6. The manufacturer instructs the Division to cancel its certification of the ignition interlock device model; or
  7. The manufacturer, its authorized installer, or the device does not comply with this Article or any other applicable rule or statute.
- B. The Division, upon finding any of the conditions described under subsection (A), shall mail to the manufacturer a notice and order of cancellation of certification for the specific ignition interlock device model. The notice and order of cancellation shall:
1. Specify the basis for the action; and
  2. State that the manufacturer may, within 15 days of the date on the notice, file a written request for a hearing with the Division's Executive Hearing Office to show cause as to why the ignition interlock device certification should not be cancelled.
- C. If a hearing to show cause is timely requested, the Division's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.
- D. Within 60 days after the effective date of an order of cancellation, the manufacturer shall, at the manufacturer's own expense, ensure the removal of all decertified ignition interlock devices and facilitate the replacement of each device with a certified ignition interlock device.
- E. The manufacturer of a previously decertified ignition interlock device model may reapply to the Division for certification of the ignition interlock device model under R17-5-604.

#### Historical Note

New Section recodified from R17-4-709.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-607 renumbered to R17-5-610; new R17-5-607 renumbered from R17-5-604 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### Appendix A. Renumbered

#### Historical Note

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix A renumbered to R17-5-610, Appendix A, by final rulemaking at 13 A.A.R. 3499, effective December

1, 2007 (Supp. 07-4).

## Appendix B. Renumbered

### Historical Note

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix B renumbered to R17-5-610, Appendix B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

## Appendix C. Renumbered

### Historical Note

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix C renumbered to R17-5-610, Appendix C, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

### R17-5-608. Modification of a Certified Ignition Interlock Device Model

- A. A manufacturer shall notify the Division in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B. Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Division, a manufacturer shall:
  1. Submit to the Division a completed application form and all additional items required under R17-5-604(C), and
  2. Obtain certification of the materially modified ignition interlock device from the Division.
- C. The Division's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

### Historical Note

New Section recodified from R17-4-709.07 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-608 renumbered to R17-5-611; new R17-5-608 renumbered from R17-5-605 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

### R17-5-609. Manufacturer Referral to Division-certified Installers; Manufacturer Oversight of its Authorized Installers

- A. A manufacturer shall refer a participant only to a Division-certified installer.
- B. A manufacturer shall provide the Division with a toll-free telephone number for a participant to call to obtain names, locations, telephone numbers, contact people, and hours of operation for its authorized installers.
- C. A manufacturer shall ensure that its authorized installer follows the installation and operation procedures established by the manufacturer.
- D. A manufacturer shall ensure that its authorized installer receives and maintains all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the certified ignition interlock device.
- E. A manufacturer shall ensure that its authorized installer:
  1. Complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle, and
  2. Electronically notifies the Division within 24 hours after removing a certified ignition interlock device.
- F. A manufacturer shall ensure that its authorized installer distributes to every participant, and makes available for every person operating a motor vehicle equipped with a certified

ignition interlock device, the manufacturer's written instructions for the following:

1. Operating a motor vehicle equipped with the certified ignition interlock device,
  2. Cleaning and caring for the certified ignition interlock device, and
  3. Identifying and addressing any vehicle malfunctions or repairs that may affect the certified ignition interlock device.
- G. A manufacturer shall ensure that its authorized installer provides to every participant, and makes available for any person operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's specified training in how to operate a motor vehicle equipped with the device.
  - H. A manufacturer or installer shall provide a warning label, for each certified ignition interlock device installed, which shall:
    1. Be of a size appropriate to each device model;
    2. Have an orange background; and
    3. Contain the following language in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."
  - I. A manufacturer shall ensure that its authorized installer affixes conspicuously to each installed certified ignition interlock device the warning label described under subsection (H).

### Historical Note

New Section recodified from R17-4-709.08 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-609 renumbered to R17-5-612; new R17-5-609 renumbered from R17-5-606 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

### R17-5-610. Installation Verification; Accuracy Check; Non-compliance and Removal Reporting

- A. A participant shall have installed in a motor vehicle, only an ignition interlock device certified by the Division under R17-5-604.
- B. A manufacturer shall comply, and ensure that its authorized installer complies, with its written procedures for the installation of a certified ignition interlock device.
- C. Certified ignition interlock device installation verification.
  1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Division within 24 hours of installing a certified ignition interlock device.
  2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
    - a. Installer ID;
    - b. Participant's full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;
    - e. Report date;
    - f. Install date;
    - g. Removal date; and
    - h. Report Type.
- D. Certified ignition interlock device accuracy and compliance check.
  1. A manufacturer shall ensure that its authorized installer schedules a participant for accuracy and compliance checks as follows:
    - a. 30 days, 60 days, and 90 days after installation of a certified ignition interlock device; and



- b. At least once every 60 days after the 90-day accuracy and compliance check.
    - 2. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Division within 24 hours after performing an accuracy and compliance check on an installed certified ignition interlock device.
    - 3. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the accuracy and compliance check shall contain all of the following information:
      - a. Installer ID;
      - b. Participant's full name (first, middle, last and suffix);
      - c. Date of birth;
      - d. Driver license or customer number;
      - e. Report date;
      - f. Install date;
      - g. Removal date;
      - h. Report Type; and
      - i. Noncompliance code and breath alcohol concentration violation count as applicable.
  - E. Certified ignition interlock device noncompliance report.
    - 1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Division, within 24 hours after conducting an accuracy and compliance check, when an installed certified ignition interlock device displays evidence of tampering, circumvention, or misuse.
    - 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for noncompliance shall indicate the condition of noncompliance and contain all of the following information:
      - a. Installer ID;
      - b. Participant's full name (first, middle, last and suffix);
      - c. Date of birth;
      - d. Driver license or customer number;
      - e. Report date;
      - f. Install date;
      - g. Removal date;
      - h. Report Type; and
      - i. Noncompliance code and breath alcohol concentration violation count as applicable.
  - F. Certified ignition interlock device removal report.
    - 1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Division within 24 hours if a certified ignition interlock device is removed before the end of a participant's certified ignition interlock device requirement period.
    - 2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:
      - a. Installer ID;
      - b. Participant's full name (first, middle, last and suffix);
      - c. Date of birth;
      - d. Driver license or customer number;
      - e. Report date;
      - f. Install date;
      - g. Removal date;
      - h. Report Type; and
  - i. Noncompliance code and breath alcohol concentration violation count as applicable.
- Historical Note**
- New Section recodified from R17-4-709.09 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-610 renumbered to R17-5-703; new R17-5-610 renumbered from R17-5-607 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- Exhibit A. Renumbered**
- Historical Note**
- New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Exhibit A renumbered to R17-5-703, Exhibit A, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- Exhibit B. Renumbered**
- Historical Note**
- New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Exhibit B renumbered to R17-5-703, Exhibit B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- Appendix A. Repealed**
- Historical Note**
- Appendix A renumbered from R17-5-607, Appendix A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- Appendix B. Repealed**
- Historical Note**
- Appendix B renumbered from R17-5-607, Appendix B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- Appendix C. Repealed**
- Historical Note**
- Appendix C renumbered from R17-5-607, Appendix C, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).
- R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Service to Participants**
- A.** A manufacturer shall ensure that its authorized installer provides to each participant a 24-hour emergency phone number for assistance in the event a certified ignition interlock device fails to operate properly or a vehicle experiences a problem relating to the installation, operation, or failure of a certified ignition interlock device.
- 1. Within two hours after receiving a participant's call for emergency assistance, if the authorized installer determines that a vehicle is experiencing a problem relating to the installation, operation, or failure of a certified ignition interlock device, the authorized installer shall either:
    - a. Provide telephonically, the technical information required for the participant to resolve the issue; or
    - b. Provide or arrange for appropriate towing or roadside assistance services if unable to resolve the issue telephonically.
  - 2. Within 48 hours after receiving a participant's call for emergency assistance, the authorized installer shall either:

- a. Make the certified ignition interlock device functional, or
  - b. Replace the certified ignition interlock device.
- B.** A manufacturer shall ensure uninterrupted service to a participant for the duration of the participant's certified ignition interlock device requirement, which shall include facilitating the immediate replacement of an authorized installer if the installer goes out of business or its certification is cancelled by the Division under R17-5-708.
  1. If a manufacturer terminates its authorized installer's appointment, or the Division cancels the installer's certification under R17-5-708, the manufacturer shall:
    - a. Obtain participant records from its formerly authorized installer; and
    - b. Provide the participant records to a new authorized installer for retention according to R17-5-612; or
    - c. Retain the participant records according to R17-5-612, if a new authorized installer is not appointed.
  2. If a manufacturer appoints a new authorized installer, the manufacturer shall:
    - a. Ensure that the new authorized installer operates either:
      - i. A mobile service center that is located within 75 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or
      - ii. A service center that is a permanent facility located within 125 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; and
    - b. Notify each participant affected by the appointment of the new authorized installer at least 30 days before the appointment becomes effective.
  3. If a manufacturer does not appoint a new authorized installer, or its new authorized installer cannot provide service as prescribed under subsection (2), the manufacturer, at no cost to the participant, shall:
    - a. Provide written notification to all participants affected by the change of authorized installers at least 30 days before the authorized installer is to discontinue service. The written notification shall inform the participant of the manufacturer's responsibility to facilitate removal and replacement of the certified ignition interlock device and shall provide all of the instructions necessary for the participant to successfully exchange the device;
    - b. Remove the device from the vehicle of each affected participant; and
    - c. Facilitate the replacement of each device through a manufacturer with an authorized installer that can provide service as prescribed under subsection (2).
  4. A manufacturer shall notify the Division within 72 hours of replacing its authorized installer.
  5. A manufacturer shall submit to the Division an updated list of its authorized installers within 10 days after making a change to the list provided to the Division under R17-5-604.
- C.** Except in an emergency situation, a manufacturer or its authorized installer shall not remove another manufacturer's certified ignition interlock device without the express permission of that manufacturer.
  1. If in an emergency situation a manufacturer or its authorized installer removes another manufacturer's certified ignition interlock device, that manufacturer or authorized installer shall return the device to the original installer within 72 hours of the emergency removal; and
2. The original installer, upon receipt of the device, shall provide to the Division an electronic report of the device removal under R17-5-610, which shall include the transmission of all data stored in its data storage system.
- D.** A manufacturer shall facilitate the immediate replacement of its authorized installer's service center if the service center goes out of business or its Division certification is cancelled under R17-5-708. The manufacturer shall notify the Division within 72 hours of replacing a service center.
  1. If an out-of-business or cancelled service center is replaced, the manufacturer shall make all reasonable efforts to obtain, from the service center being replaced, all participant records and data required to be retained under R17-5-612. The records shall be provided to, and maintained by, the new service center.
  2. If an out-of-business or cancelled service center is not replaced, the manufacturer shall retain the records and data as required under R17-5-612. The Division shall be notified of this event within 72 hours.
    - a. The manufacturer shall facilitate removal of all installed certified ignition interlock devices no longer serviced by the out-of-business or cancelled service center, and shall bear the cost of replacing each device with a serviceable certified ignition interlock device, even if the replacement device must be provided through an alternate manufacturer.
    - b. The manufacturer shall, within 30 days, make a reasonable effort to notify its customers of the change of service center or replacement of a device.
  3. If neither subsection (1) nor (2) can be accomplished, the manufacturer shall, within 60 days:
    - a. Notify its customers and the Division that service will be terminated; and
    - b. Remove each device at no cost to the customer.

#### Historical Note

Section R17-5-611 renumbered from R17-5-608 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### **R17-5-612. Records Retention; Submission of Copies and Quarterly Reports; Periodic Inspections**

- A.** Records retention. A manufacturer shall retain, or ensure that its authorized installer retains, a participant's records for five years after the removal of a certified ignition interlock device. The retained records shall consist of every document relating to installation and operation of the certified ignition interlock device.
- B.** Copies of records and quarterly reports.
  1. A manufacturer shall ensure that its authorized installer or the manufacturer provides copies of participants' records to the Division within 10 days after Division personnel make a request for copies of records, including records relating to installation and operation of the certified ignition interlock device.
  2. A manufacturer shall ensure that its authorized installer mails, faxes, or e-mails to the Division, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
    - a. The number of certified ignition interlock devices the authorized installer currently has in service;
    - b. The number of certified ignition interlock devices installed since the previous quarterly report; and

- c. The number of certified ignition interlock devices removed by the authorized installer since the previous quarterly report.
- C. Periodic inspections. The Division shall periodically conduct an inspection at the premises of a manufacturer or its authorized installer, under A.R.S. § 41-1009 and R17-5-613. The inspection shall determine whether the manufacturer, its authorized installer, the service center of the authorized installer, and the installer-certified service representatives are in compliance with this Article and Article 7.

#### Historical Note

Section R17-5-612 renumbered from R17-5-609 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### R17-5-613. Ignition Interlock Investigator

- A. The Division's ignition interlock investigator shall investigate any complaint or report of misconduct brought against a certified ignition interlock device manufacturer, installer, service center, or installer-certified service representative for noncompliance with a provision of Articles 6 or 7 of this Chapter or A.R.S. Title 28, Chapter 4, Article 5.
- B. Inspection of a manufacturer, installer, or service center under Articles 6 or 7 of this Chapter shall be conducted in accordance with A.R.S. § 41-1009. The inspection shall include an examination of participant records and verification of an adequate supply of the warning labels and written instructions required to be made available under A.R.S. § 28-1462, R17-5-609, and R17-5-704.
- C. The Division's ignition interlock investigator shall perform onsite inspections of a manufacturer, installer, or service center as needed to verify continuous compliance with the Division's ignition interlock program requirements established under Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

### ARTICLE 7. IGNITION INTERLOCK DEVICE INSTALLERS

#### R17-5-701. Definitions

In addition to the definitions under A.R.S. § 28-1301, and unless the context otherwise requires, the definitions under A.A.C. R17-4-408 and R17-5-601 apply to this Article.

#### Historical Note

New Section recodified from R17-4-801 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements

- A. A manufacturer's authorized installer shall be certified by the Division before installing a certified ignition interlock device under Arizona law.
- B. A manufacturer's authorized installer shall obtain from the manufacturer, as provided under R17-5-609, all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the manufacturer's certified ignition interlock device.

- C. A manufacturer's authorized installer shall submit to the Division a properly completed application for installer certification. The application for installer certification shall provide:
  1. The authorized installer's name;
  2. The authorized installer's business address and telephone number;
  3. The authorized installer's status as a sole proprietorship, partnership, limited liability company, or corporation;
  4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  5. The name and model number of each certified ignition interlock device the authorized installer intends to install; and
  6. The following statements, signed by the authorized installer and acknowledged by a notary public or Division agent:
    - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
    - b. A statement that the authorized installer agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
    - c. A statement that the authorized installer agrees to comply with all requirements under this Article; and
    - d. A statement that the authorized installer agrees to immediately notify the Division of any change to the information provided on the application form.
- D. The Division shall process an application for installer certification as provided under R17-5-605.
- E. Division certification issued to an authorized installer under this Article shall not expire as long as the installer remains authorized by a manufacturer to install its certified ignition interlock device model under Arizona law.
  1. If a Division-certified installer is no longer authorized by a manufacturer to install its certified ignition interlock device, the installer's certification is immediately expired.
  2. If the installer again becomes authorized by a manufacturer to install its certified ignition interlock device, the installer may reapply to the Division for certification under this Article by submitting a new application.
- F. A Division-certified ignition interlock device installer shall notify the Division within 24 hours of making a decision to relocate a fixed-site service center.
- G. A Division-certified ignition interlock device installer shall train and certify each of its service representatives on the proper installation of a certified ignition interlock device before allowing the service representative to install the certified ignition interlock device.
- H. A Division-certified ignition interlock device installer shall provide to the Division a current list of the names of each of its certified service representatives. The installer shall electronically notify the Division within 24 hours of making a change to its list.

#### Historical Note

New Section recodified from R17-4-805 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-703. Ignition Interlock Device Installer Bond Requirements**

- A.** Before installing, servicing, or removing a certified ignition interlock device, an installer shall:
1. Be appointed by a manufacturer as an authorized installer of its certified ignition interlock device;
  2. Obtain an ignition interlock installer bond from a surety company authorized by the Arizona Department of Insurance to conduct general surety business in Arizona. The ignition interlock installer bond shall be:
    - a. In the amount of \$25,000;
    - b. On the approved form provided by the Division; and
    - c. Maintained for as long as the installer intends to install, service, or remove Division-certified ignition interlock devices under Arizona law;
  3. Submit the original completed ignition interlock installer bond to the Arizona Department of Transportation, Motor Vehicle Division, Ignition Interlock Program, 1801 W. Jefferson St. MD530M, Phoenix, AZ 85007; and
  4. Receive Division certification under R17-5-702.
- B.** An installer authorized by a manufacturer and certified by the Division to install, service, or remove more than one certified ignition interlock device model needs only one bond.

**Historical Note**

New Section recodified from R17-4-806 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). Section R17-5-703 renumbered from R17-5-610 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Exhibit A. Repealed****Historical Note**

Exhibit A renumbered from R17-5-610, Exhibit A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Exhibit B. Repealed****Historical Note**

Exhibit B renumbered from R17-5-610, Exhibit B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-704. Division-certified Installer Responsibilities**

An authorized installer certified by the Division to install a certified ignition interlock device shall:

1. Follow the installation and operating procedures established, and provided, by the manufacturer;
2. Acquire and maintain all necessary training and skills specified by the manufacturer for installing, troubleshooting, examining, and verifying the proper operation of its certified ignition interlock device;
3. Comply with all of the manufacturer's procedures for removing the certified ignition interlock device from a vehicle;
4. Electronically notify the Division within 24 hours after removing a certified ignition interlock device under R17-5-611;
5. Provide to the manufacturer, or to the Division if delegated by the manufacturer, an accurate electronic reporting of all applicable information required of the manufacturer under R17-5-610;
6. Provide to every participant, and make available for every person operating a motor vehicle equipped with the

certified ignition interlock device, a copy of the manufacturer's written instructions for the following:

- a. Operating a motor vehicle equipped with the certified ignition interlock device;
  - b. Cleaning and caring for the certified ignition interlock device; and
  - c. Identifying and addressing vehicle malfunctions or repairs that may affect the certified ignition interlock device;
7. Ensure that each participant receives an operator's manual and is further instructed regarding all of the following:
    - a. How to use the system;
    - b. How to obtain service for the system;
    - c. How to find answers to any additional questions;
    - d. How the alcohol retest feature works;
    - e. How drinking alcohol before a test may result in a reading of sensitive or fail;
    - f. How the handset of the device shall not be removed, except by an installer-certified service representative;
    - g. How missing an appointment for a regularly scheduled accuracy check will cause the certified ignition interlock device to enter into a lock-out condition that will emit a unique cue, either auditory, visual, or both, to warn the driver that after 72 hours the vehicle will not start. It shall be the responsibility of each participant to have the car towed to the service center if a lock-out condition occurs;
    - h. How noncompliance with a regularly scheduled accuracy check shall result in suspension of the participant's driver license until proof of compliance is submitted to the Division under A.R.S. § 28-1463; and the duration of the participant's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1464 and A.A.C. R17-4-408;
    - i. What the penalties are for tampering with, circumventing, or misusing the system;
    - j. What will happen after failing a start-up breath alcohol test; and
    - k. What will happen after failing a rolling retest.
  8. Ensure that each participant demonstrates:
    - a. A properly delivered alveolar breath sample; and
    - b. An understanding of how the abort test feature works.
  9. Affix conspicuously, the warning label provided by the Manufacturer under R17-5-609.
  10. Check each device for evidence of tampering at least once every 60 days or more frequently if needed. This anticircumvention check shall be conducted at each participant's regularly scheduled accuracy and compliance check required under R17-5-610.
  11. Notify the Division electronically under R17-5-610 if any evidence of tampering is discovered.

**Historical Note**

New Section recodified from R17-4-807 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-705. Installer-certified Service Representatives****A. Initial certification.**

1. To achieve certification as a service representative, an individual shall obtain written documentation from a

Division-certified ignition interlock device installer documenting that the individual is currently trained in each aspect involved with the specific certified ignition interlock device for which the individual seeks certification to install or service.

2. An installer shall not certify as a service representative, any individual with a felony conviction in the five years preceding the individual's request for certification. In this Section, conviction means that a court of competent jurisdiction adjudicated the individual guilty.
3. The Division, with advance notice to the installers, may require additional standards for installer certification of its service representatives when needed to ensure compliance with the Division's ignition interlock program.

**B. Proficiency requirements.**

1. It is the responsibility of the installer to ensure that its certified service representatives maintain proficiency in each aspect involved with each specific certified ignition interlock device model the individual is certified to install or service.
2. The Division's ignition interlock investigator may at any time require an installer-certified service representative to demonstrate competency in the installation, inspection, downloading, calibrating, repairing, monitoring, maintaining, servicing or removal of a specific certified ignition interlock device. A failure of the installer-certified service representative to demonstrate proficiency to the Division's ignition interlock investigator may result in disciplinary action against the installer as provided under R17-5-707.

**Historical Note**

New Section recodified from R17-4-808 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-706. Accuracy and Compliance Check; Requirements**

- A.** An installer-certified service representative shall inspect, maintain, and check each certified ignition interlock device for calibration accuracy and operational performance before the device is placed into, or returned to, service.
- B.** The installer-certified service representative shall perform each accuracy and compliance check in accordance with NHTSA specifications at a service center authorized by the installer and certified by the Division under R17-5-707.
- C.** The accuracy and compliance check performed under R17-5-610 shall include an inspection of the device to verify that it is properly functioning in accordance with all of the following criteria:
  1. Accuracy standards as prescribed under R17-5-603;
    - a. The device shall be calibrated before placed into, or returned to, service.
    - b. The device shall be subjected to a calibration test before returning it to service. This test shall consist of introducing to the device a known alcohol concentration from a reference sample device, the analysis of which indicates the device's agreement with the known concentration. The installer's software shall be capable of performing, documenting, and reporting the result of this calibration test. The test result described herein shall verify the accuracy of the ignition interlock device according to the standards prescribed under R17-5-603; and

2. Anticircumvention standards and operational features as prescribed under R17-5-603.

- D.** The calibration test referenced under subsection (C)(1) shall be performed when the information uploaded from a device indicates that the device has experienced an interruption in service or was completely disconnected. Additionally, the complete device shall be examined for evidence of tampering and circumvention while it is still attached to the vehicle.
- E.** If calibration confirmation test results reveal that the device is not properly calibrated, the device shall be recalibrated to restore the accuracy standards prescribed under R17-5-603 before the device is returned to service.
- F.** If at any time an individual device fails to meet the provisions of this Section, the manufacturer, installer, service center, or installer-certified service representative shall either:
  1. Repair, recalibrate, and retest the device to ensure that it does meet all applicable standards; or
  2. Remove the device from service.

**Historical Note**

New Section recodified from R17-4-501 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-707. Certification and Inspection of Service Centers; Application**

- A.** A service center, whether located on a fixed site or mobile, shall be approved and certified by the Division under this Article before it is used by an installer to conduct certified ignition interlock device related business in this state.
- B.** For Division approval and certification of a service center, an installer shall submit to the Division a separate application for each individual service center the installer intends to use for conducting certified ignition interlock device related business in this state.
- C.** On an application for the approval and certification of a service center, available from the Division, an installer shall identify:
  1. The physical location of the service center;
  2. The ignition interlock device, or devices, to be merchandised and serviced at the location; and
  3. The reference sample device, or devices, that will be used at the location.
- D.** An installer shall attach, to the application submitted to the Division under subsection (B), a statement from the manufacturer acknowledging that the installer is authorized to install the certified ignition interlock device, or devices, described on the application.
- E.** An installer applying for Division approval and certification of a service center shall agree to:
  1. Allow the Division access to the service center for inspection under subsection (G); and
  2. Comply with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5.
- F.** For Division approval and certification of a service center, the installer's ignition interlock device testing facilities, equipment, and the procedures used in the service center shall meet the following conditions:
  1. A fixed-site service center shall be located in a facility that properly and successfully accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing, and removing a specific ignition interlock device. The installer shall:

- a. Provide a designated waiting area for the participant that is separate from the installation area; and
  - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
2. A mobile service center shall be equipped with the same materials and capacities prescribed under subsection (1). An installer or service representative operating a mobile service center shall:
  - a. Designate a waiting area for the participant that is separate from the area used for the installation; and
  - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
3. The installer, whether operating a fixed-site service center, or mobile, shall ensure that its certified service representatives utilize all of the following:
  - a. The analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the Division. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the Division upon request.
  - b. The startup set point value established under R17-5-603. All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).
  - c. The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.
4. Only a properly trained installer-certified service representative shall perform certified ignition interlock device related services rendered through a service center.
  - a. The installer shall maintain sufficient staff at each service center to ensure an acceptable level of service. The service center shall always be staffed with at least one certified service representative.
  - b. The installer shall schedule accuracy and compliance checks at each service center in a manner that will not deprive a participant of an acceptable level of service.
  - c. The installer's software shall document the certified service representative performing each accuracy and compliance check and shall record the date each service is performed.
  - d. Division-certified installers may train potential certified service representatives in the service center only under the direct supervision of a currently certified service representative.
5. The installer shall agree to:
  - a. Submit a violation to the Division as prescribed under R17-5-610 no later than 24 hours after the installer discovers the violation;
  - b. Maintain complete records of each device installation for five years from the date of its removal;
  - c. Require each applicant seeking installer certification as a service representative to certify that he or she has not been convicted of a felony within the five years preceding the date of application;
  - d. Retain the five-year felony certification required of each installer-certified service representative under subsection (c) for five years after the date of the employee's separation from employment; and
  - e. Make available to the Division upon request, either by inspection or in hardcopy form, all records relating to the installer's ignition interlock device operations.
6. The installer shall ensure that all anticircumvention features are activated on each installed certified ignition interlock device.
7. The installer shall install and inspect each certified ignition interlock device as provided under this Article.
  - a. Each time an installer uploads the information from a participant's certified ignition interlock device, the installer-certified service representative shall perform a visual inspection of the vehicle, the device, and the device's wiring to ensure no tampering or circumvention has occurred during the monitoring period.
  - b. The calibration test referenced under R17-5-706 shall be performed if the downloaded device information indicates that the device has experienced an interruption in service or was completely disconnected.
8. The installer shall agree to abide by conditions for the removal of an ignition interlock device, including but not limited to the following:
  - a. No ignition interlock device shall be removed without notifying the Division of the removal under R17-5-610.
  - b. A service representative or service center shall not remove the certified-ignition interlock device of another manufacturer, except in an emergency, or other special circumstance authorized by the Division. All such removals shall be documented and reported to the Division. All device removal records shall be retained as prescribed under R17-5-612.
  - c. When a participant requests to exchange one manufacturer's device for the device of another manufacturer, the installer of the original device shall notify the Division of the device removal under R17-5-610.
- G. The Division may cancel the certification of an installer or its service center if the installer or service center is found to be operating in violation of any provision under this Article or A.R.S. Title 28, Chapter 4, Article 5. To ensure continuous compliance with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5, the Division's ignition interlock investigator may inspect an installer's service center under A.R.S. § 41-1009.
- H. An installer shall designate a custodian of records who shall, if required in an administrative hearing or court proceeding, provide testimony concerning the interpretation of data storage system records and answer questions concerning the installer's certification and compliance with the Division's ignition interlock program requirements.
- I. Before issuing certification, the Division may perform an onsite evaluation of a service center to verify compliance with this Article.
- J. After verifying compliance with subsections (A) through (F), the Division shall issue a certificate to the installer and each service center that shall remain valid until cancelled by the Division or terminated by the installer or service center. Issuance of a certificate to an installer or service center under this Section shall be evidence that the installer's service center has met all of the criteria necessary for approval and certification by the Division.
- K. Certification of the installer's service center is contingent upon the installer's agreement to conform with and abide by all directives, orders, and policies issued by the Division regarding any service center activities regulated by the Division

under this Article and A.R.S. Title 28, Chapter 4, Article 5, which may include:

1. Program administration,
2. Reports,
3. Records and forms,
4. Inspections,
5. Methods of operations and testing protocol,
6. Personnel training and qualifications,
7. Criminal history considerations for installer-certified service representatives, and
8. Records custodian.

- L.** Certification issued under this Section may be cancelled by the Division if the installer, service center, or installer-certified service representative violates or is not in compliance with a provision of this Article or A.R.S. Title 28, Chapter 4, Article 5, or the certified ignition interlock device equipment it is authorized by the manufacturer to install no longer meets the requirements provided under Article 6 of this Chapter.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

#### **R17-5-708. Cease and Desist; Denial or Cancellation of Certification; Appeal; Hearing**

- A.** If the Director has reason to believe that a Division-certified installer or service center is operating in violation of a provision under this Article or A.R.S. Title 28, Chapter 4, Article 5, the Director shall immediately issue and serve a cease and desist order on the installer or service center by personal delivery or by mail to its last known address.
1. On receipt of a cease and desist order, an installer or service center shall immediately take action as specified in the order or cease and desist from engaging in any further activity authorized under this Article or A.R.S. Title 28, Chapter 4, Article 5.
  2. On failure of an installer or service center to comply with a cease and desist order, the Director shall issue an immediate cancellation of its installer or service center certification.
- B.** Appeal of a denial of application or cancellation of certification. If the Division denies a pending application for certification, or cancels a certification previously issued to an installer or its service center, the installer or service center may appeal the action as follows:
1. Within 15 days after receipt of a notice of denial of application or a notice of cancellation of certification, the installer or service center may file a written request for a hearing on the issue of the denial or cancellation with Division's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
  2. If a hearing on the issue of the denial or cancellation is timely requested, the Division's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of an installer or service center's certified activities.
  3. Within 10 days after a hearing, the Hearing Officer shall issue to the installer or service center a written decision, which shall:
    - a. Provide findings of fact and conclusions of law; and
    - b. Grant the application, deny the application, or cancel the certification.
  4. If the Hearing Officer affirms the denial of application or cancellation of certification, the installer or service center

may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 30 days from the date of the decision and order. The denial of application or order of cancellation shall not be suspended during pendency of an appeal.

- C.** After denial of an application, or cancellation of a certification, an installer or service center may reapply to the Division for a new certification by completing a new application and meeting all certification requirements under this Article. A cancellation does not prohibit a manufacturer, installer, or service center from submitting a subsequent application for certification if all certification requirements are met.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

### **ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY**

#### **R17-5-801. Definitions**

In addition to the definitions under A.R.S. §§ 28-101 and 28-4001, in this Chapter, unless otherwise specified:

"Company" means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.

"Customer number" means the system-generated, or other distinguishing number, assigned by the Division to each person conducting business with the Division. The customer number of a private individual is generally the person's driver license or non-operating identification license number. The customer number of a business is generally its federal employer identification number.

"Division" means the Arizona Department of Transportation's Motor Vehicle Division.

"EDI" means electronic data interchange, which is the transmission of data in a standardized format from one computer to another without the use of magnetic tape.

"EDI reporting" means the weekly computer-to-computer transmission of data from a company to the Division.

"Error return" means the immediate computer-to-computer transmission, from the Division to a company, of all data reporting errors received during EDI reporting.

"FEIN" means the federal employer identification number or federal tax identification number used to identify a business entity.

"FTP" means file transfer protocol, which is a common protocol used by the Division for exchanging files over any network that supports EDI reporting transmitted through the Internet or Intranet.

"Information exchange" means EDI reporting where a company or service provider transmits a report to the Division through a connection to a private information network.

"MVD" means the Arizona Department of Transportation's Motor Vehicle Division.

"NAIC" means the National Association of Insurance Commissioners.

"Private information network" means the value-added network used by a company or service provider to facilitate EDI transmissions to the Division and to provide other network services where fees are charged for the network connection based on the number of characters and messages transmitted.

“Reportable activity” means the information required to be transmitted to the Division under A.R.S. § 28-4148 and this Article.

“Self-insurer” means a person or entity that has met the qualifications, completed the application process, and received a certificate of self-insurance issued by the Division under Section R17-5-810.

“Service provider” means a person or entity that provides the connection to a private information network for EDI reporting.

“SR22” means a certification filed, by a company duly authorized to transact business in this state, as proof of financial responsibility for the future, which guarantees that the insured owner or operator has in effect at least the minimum motor vehicle liability insurance coverage required under A.R.S. Title 28, Chapter 9, Article 3.

“SR26” means a certification filed by a company duly authorized to transact business in this state, which notifies the Division that an insured owner or operator required to maintain proof of financial responsibility for the future, under A.R.S. Title 28, Chapter 9, Article 3, is no longer covered under a previously reported SR22.

“Value-added Network” means a private network provider that is hired by a company to facilitate EDI or provide other network services.

“X12” means the American National Standards Institute, Accredited Standards Committee, uniform standards for the inter-industry electronic exchange of business transactions by EDI.

“X12 (TS811)” means X12 Transaction Set 811, Consolidated Service Invoice – Statement, version 3050, which is the specific set of EDI transactions developed for the insurance industry in the X12 standard format for automobile liability insurance reporting.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

### **R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability**

- A. A company that provides motor vehicle liability insurance coverage for an Arizona vehicle shall electronically transmit to the Division all reportable activity under A.R.S. § 28-4148 and R17-5-803 using one of the authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- B. Effective May 1, 2007, a company that issues 1,000 or more SR22 policies per calendar year shall electronically transmit to the Division all SR22 and SR26 activity using one of the Division-authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- C. The Division shall not accept or record an out-of-state motor vehicle liability insurance policy for a passenger vehicle, even if written by a company authorized to transact business in this state.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

### **R17-5-803. Insurance Company Reportable Activity**

- A. A company shall transmit to the Division:

1. All reportable activity, not previously reported, that was processed by the company seven or fewer days before each reporting date; or
  2. A statement of inactivity, if no reportable activity occurred by the reporting date.
- B. For the purpose of this Article, reportable activity shall include:
    1. A policy cancellation;
    2. A policy non-renewal;
    3. A new policy issuance;
    4. A vehicle added to a policy;
    5. A vehicle deleted from a policy;
    6. A policy reinstatement; and
    7. Effective May 1, 2007, all SR22 and SR26 filings by insurance companies issuing 1,000 or more SR22 policies per calendar year.
  - C. Reportable activity does not include the addition or deletion of a vehicle to or from a non-vehicle-specific commercial policy.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

### **R17-5-804. Record Matching Criteria for a Vehicle-specific Policy**

For each vehicle-specific policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:

1. The complete and valid vehicle identification number;
2. The policy number; and
3. The NAIC number of the reporting company.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

### **R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy**

- A. For each non-vehicle-specific commercial policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:

1. The MVD Customer number of the insured:
  - a. If a policy covers all vehicles registered in the name of a business or organization, the Customer number is the FEIN of the business or organization; or
  - b. If a policy covers all vehicles registered in the name of a private individual, the Customer number is the Arizona Driver License number of the private individual;
2. The policy number; and
3. The NAIC number of the reporting company.

- B. If the MVD Customer number required under subsection (A)(1) is not available to a company, the company may provide the complete and valid vehicle identification number of each vehicle covered under the policy in-lieu of the MVD Customer number.

#### Historical Note

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

### **R17-5-806. Division-authorized EDI Reporting Methods; Reporting Schedule**

- A. A company shall transmit to the Division all reportable activity listed in R17-5-803 using one of the following Division-authorized EDI reporting methods:
  1. EDI reporting by information exchange; or
  2. EDI reporting by encrypted FTP.



- B.** A company shall transmit all reportable activity to the Division at least once every seven days.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-807. X12 Data Format for Policy Receipt and Error Return**

- A.** Reporting format. A company shall transmit to the Division all reportable activity using the format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies provided by the Division.
- B.** Error return format. The Division shall return to a company all reporting errors received during a transmission of reportable activity using the format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance**

- A.** The Division shall:
1. Return to a company, using the X12 Error Return format provided in R17-5-807(B), all reporting errors received during a transmission; and
  2. Instruct the company to correct all reporting errors affecting the Division's processing of the required data.
- B.** All companies reporting electronic policy information shall notify the Division prior to making changes to any reporting systems, or previously established policy reporting formats, that may affect the Division's ability to match and process the information received.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing**

If a company fails to submit the data required under A.R.S. § 28-4148, and this Article, the Division shall:

1. Send to the company, a dated written notice, which:
  - a. Identifies the business week or reporting period in which the company did not submit the required information;
  - b. Instructs the company to submit the information for the identified business week or reporting period within seven days of the date of the notice;
  - c. Informs the company that a failure to respond to the Division's request within the allotted time-frame, shall result in a referral of the matter to the Arizona Department of Insurance, under A.R.S. § 20-237, which may result in a civil penalty of up to \$250 per day for each day the insurer is in violation of A.R.S. § 28-4148; and
  - d. Provides notice of the company's right to request a hearing with the Arizona Department of Insurance under A.R.S. § 20-237; and
2. Advise the Arizona Department of Insurance if the company fails to comply with the Division's written notice provided under this Section.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability**

- A.** Self-insurance applicant qualification. A person or entity may apply for self-insurance under this Section if the applicant:
1. Owns the minimum number of vehicles prescribed under A.R.S. § 28-4007(A) with current Arizona registration;
  2. Demonstrates minimum assets of \$1 million on documentation required under subsections (C) and (D);
  3. Meets any additional financial responsibility requirements under A.R.S. § 28-4033(A), according to the insured vehicle's weight and/or intended use; and
  4. Provides a business office contact for the company with a current phone number and mailing information.
- B.** A self-insurance applicant shall provide, on a self-insurance application form provided by the Division, the following information:
1. Applicant's name;
  2. Business name, if applicable;
  3. Mailing address, city, state, and ZIP code;
  4. A selection of coverage type:
    - a. Public liability only; or
    - b. Public liability and property damage;
  5. Number of vehicles in the applicant's fleet;
  6. A selection list that describes the nature of the applicant's business;
  7. A description of any hazardous materials transported by type, class, and weight;
  8. A report of all accidents in the prior 39-month period before the application date;
  9. The applicant's signature and official business title to certify that all information is true and correct; and
  10. Acknowledgment by a notary public or by the signature of an authorized Motor Vehicle Division agent.
- C.** Supplementary documentation. In addition to a completed self-insurance application form, the applicant shall submit a profit and loss statement certified by a Certified Public Accountant for the 12-month period before the application date. The profit and loss statement shall include one of the following:
1. A balance sheet; or
  2. An annual financial report.
- D.** On approval of an application, the Division shall issue a certificate of self-insurance that is continuously valid but shall require the self-insurer to submit a 12-month update of supplementary documentation prescribed under subsection (C) on or before July 1 of each successive year.
- E.** An initial self-insurance applicant or a self-insurer making an annual update shall submit documentation required under subsections (B) through (D) to the following address:
- Motor Vehicle Division  
Financial Responsibility Unit  
P.O. Box 2100, Mail Drop 535M  
Phoenix, AZ 85001-2100
- F.** A self-insurer shall keep a copy of the self-insurance certificate in each covered vehicle at all times.
- G.** A self-insurer shall submit written notification to the Division of each vehicle to be added or removed from self-insurance coverage. The written notification shall include the vehicle identification number of each vehicle.
- H.** A self-insurer that terminates self-insurance shall provide new evidence of financial responsibility as required under A.R.S. § 28-4135 for each vehicle previously covered under a self-insurance certificate.
- I.** In addition to the reasonable grounds prescribed under A.R.S. § 28-4007(C), the Division may cancel a self-insurance certificate under the following circumstances:

1. A self-insurer fails to comply with provisions of the Division's annual update requirement under subsection (D), or
  2. A self-insurer no longer owns the covered business or fleet.
- J.** For the purpose of A.R.S. § 28-4007(C) and this Section, the Division shall conduct a self-insurance cancellation hearing according to the provisions prescribed under 17 A.A.C. 1, Article 5.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability**

For the purpose of A.R.S. §§ 28-4076(2) and 28-4084, a person depositing a \$40,000 certificate of deposit with the state treasurer as alternate proof of financial responsibility may apply the certificate to a maximum of 25 non-commercial vehicles registered in the person's name.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).



**Supplement to the  
Arizona Administrative Code**  
THE OFFICIAL COMPILATION OF ARIZONA RULES

**Arizona Secretary of State's Office**  
Public Services Division  
1700 W. Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

## Replacement Check List

For rules filed within the  
Third Calendar Quarter  
July 1, 2012 – September 30, 2012  
**Code Release Number: Supp. 12-3**

---

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information.

*Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.*

---

Follow the instructions to replace the updated pages.

### **TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

#### **Chapter 3 – Arizona State Lottery Commission**

Sections, Parts, Exhibits, Tables or Appendices modified

R19-3-406, R19-3-506, R19-3-537, R19-3-601, R19-3-706

☐ **REMOVE** Supp. 12-2  
Pages 1-45

☐ **REPLACE** Supp. 12-3  
with pages 1-46

This page intentionally left blank.

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING****CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

Authority: A.R.S. § 5-501 et seq.

19 A.A.C. 3, consisting of R19-3-101, R19-3-201 through R19-3-207, R19-3-301 through R19-3-381, R19-3-401, R19-3-501 through R19-3-549, and R19-3-601 recodified from 4 A.A.C. 37, consisting of R4-37-101, R4-37-201 through R4-37-207, R4-37-301 through R4-37-381, R4-37-401, R4-37-501 through R4-37-549, and R4-37-601, pursuant to R1-1-102 (Supp. 95-1).

**ARTICLE 1. EXPIRED**

Article 1, consisting of Section R19-3-101, expired under A.R.S. § 41-1056(E) at 17 A.A.R. 300, effective January 31, 2011 (Supp. 11-1).

## Section

R19-3-101. Expired

**ARTICLE 2. RETAILERS**

## Section

R19-3-201. Definitions

R19-3-202. Retailer's Application for License

R19-3-202.01. Prerequisites to Issue or Renew a License

R19-3-202.02. Time-frame for Licensure

R19-3-202.03. Denial of License Application

R19-3-202.04. Duration and Renewal of License

R19-3-202.05. Display of License and Point-of-sale Material

R19-3-202.06. Use of Lottery Logo and Trademark

R19-3-203. Direct and Promotional Sales

R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License

R19-3-204.01. Procedure for Requesting a Hearing

R19-3-204.02. Lottery Determination of Need for Emergency Action

R19-3-204.03. Appealing a Final Administrative Decision of the Lottery

R19-3-204.04. Surrender of Lottery Equipment and Property Upon Revocation

R19-3-205. Lottery-issued Equipment

R19-3-206. Retailer Training

R19-3-207. Compliance Investigations

R19-3-208. Penalties

R19-3-209. Notice and Service

R19-3-210. Reportable Events

R19-3-211. Change of Ownership or Business Location

R19-3-212. Retailer Compensation

R19-3-213. Ticket Sales to Players

R19-3-214. Payments to Lottery

R19-3-215. Prize Validation and Payment

R19-3-216. Distribution and Return of Instant Tickets

R19-3-217. Unaccounted for and Stolen Instant Scratch Tickets

**ARTICLE 3. REPEALED**

Article 3, consisting of Sections R19-3-302 through R19-3-329; Sections R19-3-350, R19-3-361, R19-3-369; and Sections R19-3-387 through R19-3-399, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (Supp. 05-3).

## Section

R19-3-301. Repealed

R19-3-302. Repealed

R19-3-303. Repealed

R19-3-304. Repealed

R19-3-305. Repealed

Illus. A. Repealed

Illus. B. Repealed

Illus. C. Repealed

R19-3-306. Repealed

R19-3-307. Repealed

R19-3-308. Repealed

R19-3-309. Repealed

R19-3-310. Repealed

R19-3-311. Repealed

R19-3-312. Repealed

R19-3-313. Repealed

R19-3-314. Repealed

R19-3-315. Repealed

R19-3-316. Repealed

R19-3-317. Repealed

R19-3-318. Repealed

Illus. A. Repealed

R19-3-319. Repealed

R19-3-320. Repealed

R19-3-321. Repealed

R19-3-322. Repealed

R19-3-323. Repealed

R19-3-324. Repealed

R19-3-325. Repealed

R19-3-326. Repealed

R19-3-327. Repealed

R19-3-328. Repealed

R19-3-329. Repealed

Exhibit A. Repealed

Exhibit B. Repealed

Exhibit C. Repealed

R19-3-330. Repealed

R19-3-331. Repealed

R19-3-332. Repealed

R19-3-333. Repealed

R19-3-334. Repealed

R19-3-335. Repealed

R19-3-336. Repealed

R19-3-337. Repealed

R19-3-338. Repealed

R19-3-339. Repealed

R19-3-340. Repealed

R19-3-341. Repealed

R19-3-342. Repealed

R19-3-343. Repealed

R19-3-344. Repealed

R19-3-345. Repealed

R19-3-346. Repealed

R19-3-347. Repealed

R19-3-348. Repealed

R19-3-349. Repealed

R19-3-350. Repealed

R19-3-351. Repealed

R19-3-352. Repealed

R19-3-353. Repealed

R19-3-354. Repealed

R19-3-355. Repealed

R19-3-356. Repealed

R19-3-357. Repealed

R19-3-358. Repealed

R19-3-359. Repealed

R19-3-360. Repealed

R19-3-361. Repealed

R19-3-362. Repealed  
 R19-3-363. Repealed  
 R19-3-364. Repealed  
 R19-3-365. Repealed  
 R19-3-366. Repealed  
 R19-3-367. Repealed  
 R19-3-368. Repealed  
 R19-3-369. Repealed  
 R19-3-370. Repealed  
 R19-3-371. Repealed  
 R19-3-372. Repealed  
 R19-3-373. Repealed  
 R19-3-374. Repealed  
 R19-3-375. Repealed  
 R19-3-376. Repealed  
 R19-3-377. Repealed  
 R19-3-378. Repealed  
 R19-3-379. Repealed  
 R19-3-380. Repealed  
 R19-3-381. Repealed  
 R19-3-382. Repealed  
 R19-3-383. Repealed  
 R19-3-384. Repealed  
 R19-3-385. Repealed  
 R19-3-386. Repealed  
 R19-3-387. Repealed  
 R19-3-388. Repealed  
 R19-3-389. Repealed  
 R19-3-390. Repealed  
 R19-3-391. Repealed  
 R19-3-392. Repealed  
 R19-3-393. Repealed  
 Exhibit A. Repealed  
 R19-3-394. Repealed  
 Exhibit B. Repealed  
 R19-3-395. Repealed  
 Exhibit C. Repealed  
 R19-3-396. Repealed  
 Exhibit D. Repealed  
 R19-3-397. Repealed  
 R19-3-398. Repealed  
 R19-3-399. Repealed

#### ARTICLE 4. DESIGN AND OPERATION OF ON-LINE GAMES

##### Section

R19-3-401. Definitions  
 R19-3-402. Game Profile  
 Exhibit 1. Repealed  
 Exhibit 2. Repealed  
 Exhibit 3. Repealed  
 Exhibit 4. Repealed  
 Exhibit 5. Repealed  
 Exhibit 6. Repealed  
 Exhibit 7. Repealed  
 Exhibit 8. Repealed  
 Exhibit 9. Repealed  
 Exhibit 10. Repealed  
 Exhibit 11. Repealed  
 Exhibit 12. Repealed  
 Exhibit 13. Repealed  
 Exhibit 14. Repealed  
 Exhibit 15. Repealed  
 R19-3-403. Ticket Purchases, Characteristics, and Restrictions  
 R19-3-404. Drawings  
 R19-3-405. Determination of a Winning Game Play

R19-3-406. Ticket Ownership and Responsibility; Prize Payment  
 R19-3-407. Ticket Validation Requirements  
 R19-3-408. Procedure for Claiming Prizes  
 R19-3-409. Claim Period  
 R19-3-410. Disputes Concerning a Ticket  
 R19-3-411. Prize Fund  
 R19-3-412. Multi-State Lottery Association Games

#### ARTICLE 5. PROCUREMENTS

*Article 5, consisting of Sections R4-37-501 through R4-37-549, adopted as permanent rules effective August 29, 1985.*

*Former Article 5, consisting of Sections R4-37-501 through R19-3-549, adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-4). R19-3-501 through R19-3-549 recodified from R4-37-501 through R4-37-549 (Supp. 95-1).*

##### Section

R19-3-501. Definitions  
 R19-3-502. Written Determination  
 R19-3-503. Confidential Information  
 R19-3-504. General Provisions  
 R19-3-505. Prospective Suppliers List  
 R19-3-506. Source Selection Method: Determination Factors  
 R19-3-507. Solicitation  
 R19-3-508. Bid Solicitation Requirements  
 R19-3-509. Request for Proposal Solicitation Requirements  
 R19-3-510. Pre-Offer Conferences  
 R19-3-511. Solicitation Amendment  
 R19-3-512. Modification or Withdrawal of Offer Before Offer Due Date and Time  
 R19-3-513. Cancellation of a Solicitation Before Offer Due Date and Time  
 R19-3-514. Receipt, Opening, and Recording of Offers  
 R19-3-515. Late Offers, Modifications, Withdrawals  
 R19-3-516. Cancellation of Solicitation After Receipt of Offers and Before Award  
 R19-3-517. One Offer Received  
 R19-3-518. Offer Mistakes Discovered After Offer Opening and Before Award  
 R19-3-519. Extension of Offer Acceptance Period  
 R19-3-520. Determination of Not Susceptible for Award  
 R19-3-521. Bid Evaluation  
 R19-3-522. Clarification of Proposal Offers  
 R19-3-523. Proposal Negotiations with Responsible Offerors and Revisions of Offers  
 R19-3-524. Final Proposal Revisions  
 R19-3-525. Evaluation of Proposal Offers  
 R19-3-526. Responsibility Determinations  
 R19-3-527. Bid Contract Award  
 R19-3-528. Proposal Contract Award  
 R19-3-529. Mistakes Discovered After Bid Award  
 R19-3-530. Mistakes Discovered After Proposal Award  
 R19-3-531. Procurements not Exceeding the Amount Prescribed in A.R.S. § 41-2535  
 R19-3-532. Solicitation – Request for Quotation  
 R19-3-533. Request for Quotation Issuance  
 R19-3-534. Quotation Contract Award  
 R19-3-535. Sole Source Procurements  
 R19-3-536. Emergency Procurements  
 R19-3-537. Competition Impracticable Procurements  
 R19-3-538. Request for Information  
 R19-3-539. Demonstration Projects  
 R19-3-540. General Services Administration Contracts  
 R19-3-541. Contract Clauses  
 R19-3-542. Assignment of Rights and Duties

- R19-3-543. Change of Name
- R19-3-544. Contract Change Orders and Amendments
- R19-3-545. Multi-term Contracts
- R19-3-546. Terms and Conditions
- R19-3-547. Determination of Fair and Reasonable Price
- R19-3-548. Submission and Certification of Cost or Pricing Data
- R19-3-549. Refusal to Submit Cost or Pricing Data
- R19-3-550. Defective Cost or Pricing Data
- R19-3-551. Protest of Solicitations and Contract Awards
- R19-3-552. Stay of Procurements During the Protest
- R19-3-553. Resolution of Solicitation and Contract Award Protests
- R19-3-554. Remedies by the Procurement Officer
- R19-3-555. Agency Report
- R19-3-556. Controversies Involving Contract Claims Against the Lottery
- R19-3-557. Procurement Officer's Decision
- R19-3-558. Issuance of a Timely Decision
- R19-3-559. Appeals and Reports to the Director
- R19-3-560. Controversies Involving Lottery Claims Against the Contractor
- R19-3-561. Online Solicitation Process
- R19-3-562. Guidance

#### ARTICLE 6. ANNUITY ASSIGNMENTS

*Article 6, consisting of Section R19-3-601, made by final rulemaking at 11 A.A.R. 2028, effective July 2, 2005 (Supp. 05-2).*

*Article 6, consisting of Section R19-3-601, repealed effective June 17, 1997 (Supp. 97-1).*

*R19-3-601 recodified from R4-37-601 (Supp. 95-1).*

*Article 6, consisting of Section R4-37-601, adopted as a permanent rule effective February 25, 1987.*

*Article 6, consisting of Section R4-37-601, adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days.*

#### Section

- R19-3-601. Voluntary Assignment of Prizes Paid in Installments

#### ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES

*Article 7, consisting of Sections R19-3-701 through R19-3-709, adopted effective October 25, 1996 (Supp. 96-4).*

#### Section

- R19-3-701. Definitions
- R19-3-702. Game Profile
- R19-3-703. Game Playstyle
- R19-3-704. Determination of a Winning Ticket
- R19-3-705. Ticket Validation and Confirmation Requirements
- R19-3-706. Ticket Ownership and Responsibility; Prize Payment
- R19-3-707. Claim Period
- R19-3-708. Procedure for Claiming Prizes
- R19-3-709. Disputes Concerning a Ticket

#### ARTICLE 8. RESERVED

#### ARTICLE 9. RESERVED

#### ARTICLE 10. PROMOTIONS

*Article 10, consisting of Sections R19-3-1001 through R19-3-1008, adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1).*

#### Section

- R19-3-1001. Definitions
- R19-3-1002. Promotion Profile

- R19-3-1003. Promotion Playstyle - Promotion Type
- R19-3-1004. Determination of a Winning Promotion
- R19-3-1005. Repealed
- R19-3-1006. Repealed
- R19-3-1007. Procedure for Claiming Prizes and Claim Period
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

#### ARTICLE 1. EXPIRED

#### R19-3-101. Expired

##### Historical Note

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-101 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-3-101 recodified from R4-37-101 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 354, effective March 11, 2006 (Supp. 06-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 300, effective January 31, 2011 (Supp. 11-1).

#### ARTICLE 2. RETAILERS

#### R19-3-201. Definitions

In this Article, unless the context otherwise requires:

1. "Act" means A.R.S. Title 5, Chapter 5.1, Article 2.
2. "Activated" means the process taken by retailers to make a pack of instant scratch tickets valid for sale to the general public.
3. "Chapter" means Arizona Administrative Code, Title 19, Chapter 3.
4. "Charitable Organization" means an organization including not more than one auxiliary, to which the United States Internal Revenue Service has issued a letter of determination of the organization's tax-exempt status, and the organization has operated for charitable purposes in Arizona for at least two years.
5. "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
6. "Controlling person" means a person at least 21 years of age accountable for the Lottery license.
7. "Flare" means the board or placard that accompanies each package of instant tab tickets and that has printed on or affixed to it the following information:
  - a. Game name,
  - b. Serial number,
  - c. Ticket count,
  - d. Prize structure, and
  - e. Cost per play.
8. "Instant scratch ticket" means an instant game ticket where the protective covering is made of latex or another substance that is scratched off.
9. "Instant tab ticket" means an instant game ticket where the protective covering is a perforated paper tab that is opened. Instant tab ticket is the brand name for Arizona Lottery pull tabs.
10. "License" means:
  - a. "Full product license" means a license to sell the products authorized by the Lottery.
  - b. "Charitable organization license" means a license issued to a qualified charitable organization to sell only instant tab tickets.
  - c. "Instant tab license" means a license to sell only instant tab tickets.
11. "Limited license" means a license issued by the Lottery that restricts the type of Lottery products sold, methods of

- selling, methods of validating Lottery products, or the type of applicant that qualifies for a Lottery license.
12. "Local premise manager" means a person who resides in Arizona that manages or is responsible for the operation of a premise or a number of premises.
  13. "Minor" means an individual under the age of 18.
  14. "On-line ticket" means a ticket purchased through a network of Lottery-authorized equipment linked to a central computer that records the wagers.
  15. "Partial pack of tickets" means less than a complete pack of consecutively numbered and connected tickets.
  16. "Premise manager" means the contact representative for a specific premise of a business or charitable organization.
  17. "Pull tab" means an instant game ticket where the protective covering is a perforated paper tab that is opened to reveal the predetermined winning and non-winning symbols.
  18. "Raffle" means the selling of numbered tickets, where each ticket has an equal chance of winning a prize in a random drawing held after the completion of all ticket sales.
  19. "Retailer" means a licensed provider of sales and redemptions services for Lottery products. A retailer may hold a full product license, a charitable organization license, an instant tab license, or a combination of licenses.
  20. "Retailer bonus" means a sum of money credited to the retailer in addition to the retailer commission for specific actions or efforts in selling or validating Lottery products.
  21. "Retailer commission" means a retailer incentive designed to maximize the sale of Lottery products by establishing a specific percent of the sales price of each ticket sold as payment for services in selling Lottery tickets.
  22. "Retailer compensation" means all types of cash and non-cash compensation to the retailer for selling Lottery tickets.
  23. "Retailer compensation profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all the fundamentals required by these rules for retailer compensation including commission, bonus, and incentive compensation to be credited to Lottery retailers.
  24. "Retailer incentive" means cash and non-cash methods to motivate action by the Lottery retailer to stimulate sales.
  25. "Sales benchmark" means sales objectives established by the Lottery based upon previous performance.
  26. "Ticket" means one or more Lottery game plays.
  27. "Validation" means confirmation of a winning Lottery ticket.

#### Historical Note

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-201 adopted effective August 17, 1981 (Supp. 81-4). Amended subsection (A) effective September 14, 1983 (Supp. 83-5). Amended subsection (E) and added subsection (F) effective January 6, 1987 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-201 recodified from R4-37-201 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-201 renumbered to R19-3-202; new R19-3-201 made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471,

effective August 7, 2012 (Supp. 12-2).

#### R19-3-202. Retailer's Application for License

All applicants shall provide the Director with the following to apply for a license to sell Lottery tickets:

1. A verified application on forms prescribed by the Director containing the following information:
  - a. The applicant's name, and if different, the trade name of the business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
  - b. The applicant's current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
  - c. Certification that access to the applicant's business complies with the Americans with Disabilities Act;
  - d. Marketing and sales information on the forms provided by the Lottery. The information required includes the number of cash registers, hours of operation, products presently offered for sale, and the approximate daily volume of customers entering the place of business;
  - e. Evidence the applicant operates a business with other products or services unrelated to lottery products or services concerning lotteries;
  - f. Financial relationship and any outstanding debt owed to the state of Arizona, any of its political subdivisions, or the United States government;
  - g. Evidence the applicant for a full product license is financially solvent. The evidence may include either of the following:
    - i. Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the three years immediately preceding the date of application, and does not have outstanding legal actions, judgments, or tax liens; or
    - ii. Personal guarantee, in writing, of applicant's Lottery account signed by a guarantor and the guarantor's spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.
  - h. An Electronic Funds Transfer Authorization agreement showing a valid bank account number for the full product applicant from which the Lottery will withdraw any amounts due.
2. If the applicant does business as a sole proprietorship or partnership:
  - a. The name, home address, and home phone number of each owner or partner, including spouse if community property owner, unless applicant provides proof that the business is sole property separate from the community;
  - b. Written authorization and tax identification number for the business entity and Social Security number of each applicant in order to obtain a credit check from a credit reporting agency; and
  - c. A completed, authorized fingerprint card for the applicant. If any general partner is a corporation, a fingerprint card is required under subsection (4).
3. If the applicant does business as a limited liability partnership ("LLP") or a limited liability company ("LLC"):



- a. The name, home address, and home phone number of each partner or member;
- b. Written authorization and a tax identification number to perform a credit check; and
- c. A completed authorized fingerprint card for each partner or member.
4. If the applicant does business as a corporation:
  - a. The name, corporate address, and corporate phone number of each officer and director, and the name, home address and home phone number of the responsible local premise manager who is the contact representative for the applicant's corporate location in Arizona;
  - b. Written authorization and a tax identification number to perform a credit check; and
  - c. A completed authorized fingerprint card for the appropriate responsible local premise manager.
5. If the applicant does business as a charitable organization:
  - a. A copy of the organization charter or formation, documentation of current membership status in the organization, and if applicable, the authorization of the auxiliary;
  - b. The name, home address, and home phone number of each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary;
  - c. A letter of determination issued in the organization's name by the United States Internal Revenue Service verifying the organization's tax-exempt status;
  - d. A completed authorized fingerprint card for each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary; and
  - e. Evidence the charitable organization has maintained a premise within the state of Arizona for the two years immediately preceding the date of application.
6. If the Lottery licenses an applicant under subsection (1)(g)(ii), the guarantor shall provide a written authorization to perform a credit check. If the guarantee is based on community property, the guarantor and guarantor's spouse shall provide written authorization for the Lottery to perform a credit check.
7. An application fee of \$45.00 and the following fees, if applicable:
  - a. If any individual listed on the personal questionnaire has resided outside the state of Arizona within the last 10 years, a fingerprint fee per individual as set by the Department of Public Safety.
  - b. If the applicant does business as a corporation, limited liability company, limited liability partnership, or a partnership, a credit check fee of \$22.
8. If the applicant is a business with more than one currently licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under R19-3-202.04(B)(3).

#### Historical Note

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-202 adopted effective August 17, 1981 (Supp. 81-4). Spelling correction, subsection (A) to adoption effective August 17, 1981 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-202 recodified from R4-37-202 (Supp. 95-1). Section repealed; new Section R19-3-202 renumbered from

R19-3-203 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-202 renumbered to R19-3-203; new R19-3-202 renumbered from R19-3-201 and amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-202.01. Prerequisites to Issue or Renew a License

- A. Evidence the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines the person has committed any act which, if committed by a licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona.
- B. An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 12 months.
- C. An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than noncompliance with the Americans with Disabilities Act, and shall not have sold Lottery products without being licensed within one year of the person's date of application.
- D. An applicant for a full product license shall have demonstrated financial solvency based on the information obtained through the application, credit check, or pending litigation, if any, or tax liens, if any.
- E. An applicant shall be one of the following to fulfill residency requirements:
  1. A resident of Arizona,
  2. A corporation incorporated in Arizona or authorized to do business in Arizona,
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona,
  4. A partnership in which at least one of the general partners resides in Arizona,
  5. A limited liability partnership in which at least one of the partners resides in Arizona, or
  6. A charitable organization authorized to do business in Arizona.
- F. As a condition of licensure, each retailer shall agree to release, indemnify, defend, and hold harmless, the Lottery, its commissioners, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to affect the rights of the retailer to recover for losses caused by any third party.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-202.02. Time-frame for Licensure

- A. For the purpose of A.R.S. §§ 41-1072 through 41-1079, the Director establishes the time-frames for a license to sell Lottery tickets:

1. Administrative completeness review time-frame: 15 days.
  2. Substantive review time-frame: 75 days.
  3. Overall time-frame: 90 days.
- B.** The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fees prescribed in R19-3-202.
1. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
  2. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing or deficient information.
  3. The 15-day time-frame for the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
  4. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
- C.** An applicant shall respond to a request for missing information within 20 days of notice of incompleteness.
- D.** If an applicant fails to submit a complete application within the time allowed, the Director may close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to R19-3-202.
- E.** From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
1. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
  2. If an applicant is found to be eligible for a license, the Director shall issue a license to the applicant permitting the applicant to engage in business as a retailer under the terms of this Chapter.
  3. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
  4. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
  5. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 18 days.
- F.** If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-202.03. Denial of License Application

The Lottery shall not issue a license to an applicant if any of the following applies:

1. The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members or managers is a minor, or a corporation in which a corporate officer, director, or manager of Lottery sales is a minor;

2. The organization is an adult-oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507;
3. The applicant has sold a Lottery product without a license, or operated gaming machines or equipment that are required to be licensed, without a license; or
4. The applicant fails to have a controlling person at least 21 years of age.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-202.04. Duration and Renewal of License

- A.** A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
- B.** A retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in R19-3-202 and R19-3-202.01. By filing an application for renewal, a retailer holding a full product license authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer. A retailer holding a charitable organization license or instant tab license shall submit cash, check, or a money order with its renewal application.
1. An application for renewal of a Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date shall authorize the retailer to continue to operate until actual issuance of the renewal license.
  2. The Director may refuse to renew a license according to the provisions of R19-3-204.
  3. A retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro-rated at \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same retailer.
- C.** A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter.
- D.** A retailer may voluntarily surrender a license unless an investigation or action has been initiated against the retailer.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### R19-3-202.05. Display of License and Point-of-sale Material

- A.** A retailer shall conspicuously display to the public that it is a licensed Lottery retailer. A retailer may do this by:
1. Posting the Lottery license in a prominent place on the premises; or
  2. Posting the authorized Lottery retailer decal in a prominent place in public view, and retaining a copy of the license on the premise, available upon request.
- B.** A retailer shall prominently display the Americans with Disabilities Act Notice and Arizona Problem Gambling Helpline toll-free telephone number.
- C.** A retailer holding a charitable organization license or instant tab license shall prominently display the flare for each instant tab game currently on sale at or near the point of sale.
- D.** A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R.

1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-202.06. Use of Lottery Logo and Trademark**

- A.** A retailer may not use the logos, trademarks, or other advertising materials of the Lottery without prior written permission or authorization of the Lottery, except for materials provided to the retailer by the Lottery.
- B.** A retailer shall not display or publish on the licensed premises material which may be considered derogatory or adverse to the operation or dignity of the Lottery or the state of Arizona. A retailer shall remove any such materials from the licensed premise upon request of the Lottery.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-203. Direct and Promotional Sales**

- A.** The Lottery may sell Lottery tickets at its main office or any branch it establishes in the state.
- B.** The Lottery may sell Lottery tickets at any promotional event.
- C.** The Lottery may authorize a licensed retailer to sell Lottery tickets at an auxiliary premise for a promotional event.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R5-37-203 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-2-203 recodified from R4-37-203 (Supp. 95-1). R19-2-203 renumbered to R19-3-202; new Section R19-2-203 renumbered from R19-4-204 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 914, effective February 10, 2000 (Supp. 00-1). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-203 renumbered to R19-3-204; new R19-3-203 renumbered from R19-3-202 by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License**

- A.** A license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:
  - 1. The retailer violates a provision of the criminal laws of the state of Arizona or the United States, which could be punished by jail time or imprisonment;
  - 2. The retailer offers to sell a Lottery ticket, sells a Lottery ticket, or pays a prize on any winning Lottery ticket to a person under 21 years of age;
  - 3. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security;
  - 4. The retailer fails to maintain minimum sales requirements or does not follow the guidelines established by the Lottery. The Lottery shall provide minimum sales requirements to retailers at least 30 days prior to the effective change date;
  - 5. The retailer commits an act that impairs the retailer's reputation for honesty and integrity;
  - 6. The retailer sells a ticket at a price greater than face value;
  - 7. The retailer pays less than the full prize value of the ticket at validation;
  - 8. The retailer advises a player that a winning ticket presented for validation was not a prize winner;

- 9. The retailer sells tickets not activated for sale on three or more occasions within any 12-month period;
- 10. The retailer sells a ticket while license is suspended for insufficient funds;
- 11. The retailer does not make purchase or redemption of Lottery tickets convenient and readily accessible to the public;
- 12. The retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, incomplete, or omits relevant information;
- 13. The retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period;
- 14. The retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
- 15. The retailer, or officer, director, partner, LLC member or manager, controlling agent, or local premise manager of the retailer:
  - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices; or
  - b. Is the subject of a civil order, judgment, or decree of a federal or state authority for misrepresentation, consumer fraud, or any other fraud;
- 16. Facts are discovered which, if known at the time the retailer's license was issued or renewed, would have been grounds to deny licensure;
- 17. The retailer adds a minor as an owner, partner, or officer of the business;
- 18. The retailer, or an officer, employee, or agent of the retailer does any of the following:
  - a. Plays any Lottery game while working,
  - b. Fails to purchase or validate the ticket from another on-duty employee or through a Lottery product vending machine, or
  - c. Fails to pay for the ticket prior to playing the Lottery game.
- 19. The retailer, or an officer, employee, or agent of the retailer sells any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
- 20. The retailer, or an officer, employee, or agent of the retailer sells a Lottery ticket by telephone, mail, fax, on the internet, or on premises not authorized by the Lottery;
- 21. The retailer, or an officer, employee, or agent of the retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
- 22. The retailer fails to display the Authorized Retailer Notice, which includes the Americans with Disabilities Act Notice and Arizona Problem Gambling Helpline toll-free telephone number;
- 23. The retailer fails to report a change event defined in R19-3-210;
- 24. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws, Lottery regulations, or denies access to Lottery personnel;
- 25. The retailer holding a charitable organization license or instant tab license fails to prominently display the flare for each instant tab game currently on sale within public view near the point of sale;
- 26. The retailer holding a charitable organization license no longer qualifies as a charitable organization or its letter of determination of tax-exempt status is suspended or revoked; or

27. The retailer fails to comply with the rules governing its license.
- B.** An investigation of a violation of Lottery rules may be initiated by action of the Director or by a written complaint of any person.
1. An investigation initiated by a written complaint shall be investigated within 30 days of receiving the complaint.
  2. During an investigation the Director may temporarily suspend a license under an emergency action, or impose specific conditions on a retailer.
- C.** An action to suspend or revoke a license shall be initiated by a notice of action to the retailer. Notice may be made by mail, hand-delivery, or electronic mail with a copy by regular mail. Notice to the retailer is effective notice if it is sent to the address in the application or the last address provided under R19-3-210.

#### Historical Note

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-204 adopted effective August 17, 1981 (Supp. 81-4). Amended as an emergency effective June 26, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Correction, former emergency amendment shown effective June 26, 1983 should read effective June 10, 1983. Former emergency amendment now adopted as a permanent amendment without change effective September 14, 1983 (Supp. 83-5). Amended effective March 6, 1986 (Supp. 86-2). Amended subsection (B) effective January 6, 1987 (Supp. 87-1). Amended effective September 12, 1989 (Supp. 89-3). R19-3-204 recodified from R4-37-204 (Supp. 95-1). Section R19-3-204 renumbered to R19-3-203; new Section R19-3-204 renumbered from R19-3-205 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Former R19-3-204 repealed; new R19-3-204 renumbered from R19-3-203 and amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### **R19-3-204.01. Procedure for Requesting a Hearing**

- A.** A retailer may request a hearing on any notice to revoke or suspend a Lottery license.
- B.** The hearing shall be held before the Office of Administrative Hearings. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- C.** The Director may accept, modify, reject, or allow the recommended decision of the Administrative Law Judge to become final by expiration of time. This is a final administrative decision of the Lottery.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### **R19-3-204.02. Lottery Determination of Need for Emergency Action**

- A.** The Director may determine the need for emergency action to disable a retailer's Lottery-issued equipment, suspend sales of Lottery games, or remove tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:

1. The retailer's bank account has insufficient funds when the Lottery's regularly-scheduled electronic transfer of the retailer's account is returned by the bank as insufficient funds or closed account and the retailer does not immediately pay the insufficiency;
  2. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
  3. The retailer, or officer, director, partner, LLC member or manager, controlling agent, or local premise manager is charged with a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices;
  4. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security;
  5. The retailer sells an altered or expired ticket;
  6. The retailer sells a ticket at a price greater than face value; or
  7. The retailer pays less than the full prize value of the ticket at validation.
- B.** A retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
1. Immediately cease all sales of Lottery products, and
  2. Surrender the license and all other Lottery property and products upon request by the Director's representative.
- C.** The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under A.A.C. R2-19-103 and A.A.C. R2-19-110.
- D.** If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery property and products.

#### Historical Note

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

#### **R19-3-204.03. Appealing a Final Administrative Decision of the Lottery**

- A.** An optional motion for rehearing may be made to the Lottery Commission by filing a Notice of Appeal to the Lottery Commission within 10 days of receipt of the final administrative decision.
1. The notice shall contain:
    - a. A copy of the Director's final administrative decision, and
    - b. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
  2. A person appealing the decision of the Director may file a written brief stating the factual and legal position on the appeal within 30 days after receipt of the decision being appealed.
  3. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  4. The Lottery Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  5. The Lottery Commission shall make its ruling on the appeal on the record.
  6. A decision of the Lottery Commission is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.

- B.** A direct appeal of a final decision of the Director under R19-3-204.01(C) may be taken for judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-204.04. Surrender of Lottery Equipment and Property Upon Revocation**

- A.** A retailer who receives a final administrative decision revoking the license shall:
1. Immediately cease all sales of Lottery products; and
  2. Surrender the license and all other Lottery equipment, property, and products upon request of the Director's representative.
- B.** If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery property and products.

**Historical Note**

New Section made by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-205. Lottery-issued Equipment**

- A.** Retailers holding a charitable organization license or instant tab license shall not be issued Lottery equipment to sell or validate Lottery products, but may use an authorized Lottery product vending machine in accordance with subsection (C).
- B.** Retailers holding a full product license shall only sell or validate Lottery products using authorized Lottery-issued equipment.
1. A retailer shall locate the equipment at a site approved by the Lottery and shall not move the equipment from that site without prior approval from the Lottery.
  2. A retailer shall ensure electrical service to the equipment location is installed according to the specifications established by the Lottery. The cost of electrical service shall be the responsibility of the retailer.
  3. A retailer shall cooperate with the Lottery to the extent reasonable and practicable to accomplish any modifications to the equipment or systems in a timely and economical fashion.
  4. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued or authorized equipment.
  5. A retailer shall operate the Lottery-issued equipment and accessories only in the ordinary course of its Lottery business and only according to the requirements established by the Lottery.
  6. A retailer shall exercise diligence and care to prevent damage to the Lottery-issued equipment and other property of the Lottery, or property of Lottery contractors.
  7. A retailer shall maintain the Lottery-issued equipment and accessories in a clean and orderly condition.
  8. A retailer shall minimize equipment downtime by notifying the Lottery or its contractor immediately of any equipment failure, malfunction, damage, or accident.
  9. A retailer shall make the equipment available for repair, adjustment, or replacement at all times during the retailer's regular business hours.
  10. A retailer shall order and use equipment supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish equipment supplies, at no cost, to the retailer.
  11. A retailer shall install and use only approved Lottery paper stock specifically assigned to the retailer.

- C.** Retailers may sell tickets using an authorized Lottery product vending machine in accordance with the Act and this Chapter.
1. A retailer shall establish loss prevention policies to ensure Lottery product vending machines are not operated by persons under 21 years of age to purchase Lottery tickets.
  2. The Lottery product vending machine shall remain operational during the retailer's regular business hours and be placed in an area visible to retail personnel and easily accessible to players.
  3. A retailer shall maintain an adequate supply of instant scratch or instant tab tickets for the Lottery product vending machine.

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Sections R4-37-205 adopted effective August 17, 1981 (Supp. 81-4). Amended effective September 12, 1989 (Supp. 89-3). R19-3-205 recodified from R4-37-205 (Supp. 95-1). Section R19-3-205 renumbered to R19-3-204; new Section R19-3-205 renumbered from R19-3-206 and amended effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-206. Retailer Training**

- A.** A retailer holding a full product license shall participate in training provided by the Lottery in the operation of Lottery equipment and sale of Lottery products. Training may take place at a retailer's place of business.
- B.** A retailer holding a full product license shall ensure all employees selling Lottery products or operating Lottery equipment are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment.
- C.** A retailer holding a full product license shall be responsible for any compensation and other associated costs payable to employees for participation in Lottery training courses and instruction.
- D.** A retailer holding a full product license shall provide all employees operating Lottery equipment with copies of the procedures manual, bulletins, and technical materials furnished to the retailer by the Lottery or its contractors.
- E.** A retailer holding a charitable organization license or instant tab license shall ensure all employees or volunteers selling instant tab tickets are properly trained.

**Historical Note**

Adopted effective August 17, 1981 (Supp. 81-4). Amended subsection (B) as an emergency effective January 13, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-1). Subsection (B), amended as an emergency, now adopted as permanent with further amendment effective April 21, 1982 (Supp. 82-2). Amended subsection (A)(1), (3) and (4) as an emergency effective November 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former emergency amendment effective November 24, 1982 now adopted as permanent effective December 28, 1982 (Supp. 82-6). Amended as an emergency effective June 10, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-

3). Former Section R4-37-206 adopted as an emergency effective June 10, 1983, now adopted and amended as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsection (A)(4) effective September 26, 1986 (Supp. 86-5). Amended effective September 12, 1989 (Supp. 89-3). R19-3-206 recodified from R4-37-206 (Supp. 95-1). R19-3-206 renumbered to R19-3-205; new Section R19-3-206 renumbered from R19-3-207 and amended effective October 9, 1998 (Supp. 98-4).

Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

### **R19-3-207. Compliance Investigations**

- A.** A retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business.
- B.** A retailer shall allow investigations by authorized Lottery investigators during the retailer's regular business hours to determine whether the retailer is complying with the provisions of the Act and this Chapter.
- C.** A retailer shall keep all documentation relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for three years. This documentation shall be easily accessible to the Lottery-authorized investigator for examination or audit.

#### **Historical Note**

Adopted as an emergency effective June 10, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-207 adopted as an emergency effective June 10, 1983, now adopted and amended as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsections (B) and (J) effective September 26, 1986 (Supp. 86-5). Amended effective September 12, 1989 (Supp. 89-3). R19-3-207 recodified from R4-37-207 (Supp. 95-1). R19-3-207 renumbered to R19-3-206; new Section R19-3-207 adopted effective October 9, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

### **R19-3-208. Penalties**

- A.** The Director shall assess a civil penalty against a retailer for any of the following acts:
  - 1. Offering to sell or selling a Lottery ticket to any person who is under 21 years of age, or
  - 2. Selling a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security.
- B.** The Director shall, on the written complaint of any person, or upon receipt of information indicating a retailer has committed an act listed in subsection (A), investigate the act or acts. The Director shall give notice to the retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds the retailer has committed such an act. A violation of an act listed in subsection (A) is a civil penalty in the amount of:

- 1. Up to \$300 for the first violation within a 12-month period;
- 2. More than \$300 and up to \$500 for the second violation within a 12-month period; and
- 3. More than \$500 and up to \$1,000 for the third violation within a 12-month period.

- C.** A retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the retailer receives notice of imposition of the civil penalty, if the retailer does not request a hearing as provided in subsection (D).
- D.** A retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E.** A decision of the Director accepting, modifying or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
  - 1. If the retailer decides not to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the retailer receives the Director's decision.
  - 2. If the retailer decides to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  - 3. If the retailer decides to appeal the Superior Court's decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  - 4. A retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.

#### **Historical Note**

New Section made by final rulemaking at 7 A.A.R. 3043, effective June 19, 2001 (Supp. 01-2). Amended by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

### **R19-3-209. Notice and Service**

Service shall be deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy is delivered to the retailer, premise manager, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the retailer or guarantor at the address listed on the application for license or as reported as a change event under R19-3-210.

#### **Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3073, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

### **R19-3-210. Reportable Events**

- A.** A retailer shall report the following events to the Lottery in writing a minimum of 10 business days before the event:
  - 1. Change in business location of the licensed premise;
  - 2. Sale of ownership, merger, or acquisition of the licensed entity;
  - 3. Addition, removal, or change of address or phone number of the following persons:

- a. A partner in a partnership or a limited liability partnership;
  - b. A member or manager in a limited liability company;
  - c. An officer holding the position or functional equivalent of president, secretary, or treasurer of a corporation; or
  - d. A controlling agent, local premise manager, or designated corporate contact representative.
4. A charge of felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices that is brought against any person listed in subsection (3);
  5. Divorce or legal separation action filed by a sole proprietor or partner licensed as a retailer, or retailer's spouse;
  6. Retailer or guarantor becomes insolvent, files bankruptcy, or a receivership is ordered;
  7. Change in bank account from which the Lottery's electronic funds transfers are made; or
  8. Revocation, suspension, or other action against a charitable organization's letter of determination of tax-exempt status.
- B.** A retailer shall report to the Lottery in writing the death of a sole proprietor or partner licensed as a retailer within 10 business days after the death occurs.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3).  
Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-211. Change of Ownership or Business Location**

A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise authorized by the Lottery.

1. If there is a change of ownership as reportable in R19-3-210(A)(1) through (3) or R19-3-210(B), change of business location, or a criminal charge as reportable in R19-3-210(A)(4), the retailer shall:
  - a. Surrender the license to the Director on the date of the event,
  - b. Not sell any additional Lottery tickets, and
  - c. Not allow the sale of Lottery products under a sub-contract.
2. If the retailer does not notify the Lottery of a change in ownership or business location at least 10 business days before the change, the retailer may not receive credit for any activated partial packs of tickets.
3. The new owner shall apply for a license according to R19-3-202.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3).  
Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-212. Retailer Compensation**

- A.** Retailer compensation shall be set within the statutory limits by a retailer compensation profile ordered by the Lottery Commission. Each retail compensation profile shall contain the following information:
1. Retailer compensation profile number;

2. Specific type of retailer compensation: commission, bonus, or other incentive;
  3. The retailer group to which the retailer commission, bonus, or other incentive applies;
  4. Criteria required to qualify for the commission, bonus, or other incentive;
  5. Duration of the retailer commission, bonus, or other incentive;
  6. Targeted games, if any; and
  7. Special features, if any.
- B.** The category of retailer commissions, bonuses, or other incentives shall be one or more of the following:
1. Full product license basic commission rate,
  2. Limited license basic commission rate,
  3. Sales benchmark rate,
  4. Game product rate,
  5. Promotional incentive or bonus rate,
  6. Temporary incentive or bonus rate, or
  7. Alternate incentive or bonus rate.
- C.** More than one retailer commission, bonus, or other incentive may run concurrently.
- D.** Promotion bonuses or incentives may be held during a designated period, specific days of the week, specific hours of the day, or a combination thereof.
- E.** The Commission shall approve and the Director shall distribute a schedule of available retailer compensation to licensed retailers at least 30 days prior to its effective date and shall post it on the Lottery web site. A technological problem or failure that either prevents the posting of the retailer commission, bonus, or other incentive on the Lottery web site or that temporarily or permanently prevents the use of all or part of the web site does not preclude the authorization of the retailer compensation.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3).  
Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-213. Ticket Sales to Players**

- A.** A retailer shall sell only the type of Lottery products authorized by its Lottery-issued license.
- B.** The Director may require a retailer to sell any one or combination of Lottery game products based on the retailer's license.
- C.** A retailer shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- D.** On-line tickets.
  1. All on-line ticket sales are final. If a retailer holding a full product license accepts a returned on-line ticket from a player or generates an on-line ticket refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
  2. A retailer holding a full product license shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
  3. A retailer holding a full product license shall only use selection slips, materials, or methods authorized by the Lottery to generate plays selected by the player.
- E.** Instant scratch tickets.
  1. All instant scratch ticket sales are final.
  2. A retailer holding a full product license shall sell instant scratch tickets within each pack in sequential order.

3. A retailer holding a full product license shall not sell an instant scratch ticket after the announced end of game.

**F. All instant tab ticket sales are final.**

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.

2639, effective September 8, 2007 (Supp. 07-3).

Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-214. Payments to Lottery**

- A.** Money collected from the sale of Lottery tickets by retailers holding a full product license are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (B).
- B.** A retailer holding a full product license shall pay for ticket sales in the following manner:
  1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.
  2. The amount due for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments.
  3. The amount due for instant scratch tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, whichever occurs first, minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments.
  4. The retailer shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
    - a. The retailer shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred, and
    - b. The retailer shall notify the Lottery of any bank account changes a minimum of 10 business days before the effective date of the change.
  5. If a retailer's payment is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
    - a. The Director may require that the retailer's Lottery-issued equipment be disabled;
    - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
    - c. The Director may require payment for instant scratch tickets upon activating the pack for sale; and
    - d. The Director may require the return of the retailer's current inventory of instant scratch tickets and suspend further delivery of instant scratch tickets.
- C.** A retailer holding a charitable organization license or instant tab license shall pay the Lottery's authorized representative for instant tab tickets.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.

2639, effective September 8, 2007 (Supp. 07-3).

Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-215. Prize Validation and Payment**

- A.** A retailer holding a full product license shall provide prize validation and payment services for instant scratch tickets or on-line tickets to any Lottery claimant regardless of where the ticket was purchased.
- B.** A retailer holding a full product license shall pay all winning prizes for instant scratch tickets or on-line tickets up to and including \$100, and may pay all winning prizes from \$101 up to and including \$599.
  1. A winning instant scratch ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the Lottery-authorized equipment.
  2. A winning on-line ticket shall satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the Lottery-authorized equipment.
- C.** A retailer selling instant tab tickets shall pay all winning prizes for tickets sold at its location.
  1. A winning instant tab ticket shall satisfy the validation criteria in R19-3-705(A) and (B)(1) through (8), and contain the necessary play, prize, and win symbol captions that enable visual confirmation of a prize.
  2. Prizes shall not be paid by the Lottery or by another retailer.
- D.** Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets. If a retailer pays a prize with a money order, any associated fees shall be paid by the retailer.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R.

2639, effective September 8, 2007 (Supp. 07-3).

Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-216. Distribution and Return of Instant Tickets**

- A.** The Lottery or its authorized representative shall distribute instant scratch tickets and accept returned instant scratch tickets as follows:
  1. Distribute to each retailer holding a full product license the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated sales volume.
  2. Collect full and partial packs of tickets during a game if the Lottery and a retailer holding a full product license determine the retailer's sales for a specific game are minimal.
  3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers holding a full product license in a timely manner.
  4. Credit to a retailer holding a full product license, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and any partial packs of tickets.
- B.** The Lottery or its authorized representative shall distribute instant tab tickets and shall not accept returns of instant tab tickets.



**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**R19-3-217. Unaccounted for and Stolen Instant Scratch Tickets**

- A.** All Lottery tickets issued to a retailer holding a full product license shall be the property of the retailer until their return is acknowledged by the Lottery. The Lottery is not responsible for lost tickets.
- B.** A retailer holding a full product license shall report stolen Lottery tickets to the local law enforcement agency and the Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered. The retailer shall:
1. Provide a copy of the written police report to the Lottery,
  2. Cooperate in any investigation and prosecution of the theft,
  3. Sign an affidavit providing the details as known by the retailer, and
  4. Maintain and report current game, pack, and ticket inventory.
- C.** If a retailer holding a full product license sustains a loss from stolen tickets, the retailer's insurance is the loss payee.
- D.** If a retailer holding a full product license has insufficient insurance to pay for the retailer's loss and the retailer complies with subsection (B), the Lottery will credit the retailer's account for stolen instant tickets as follows:
1. The Lottery shall credit all charges against the account of the retailer for the stolen tickets if the Lottery determines the theft was from a source not associated with the retailer or by an unknown party.
  2. The Lottery shall credit 50% of the charges against the account of the retailer for the stolen tickets if the Lottery determines the theft was from an employee, manager, officer, director, or a relative with access to Lottery tickets.
  3. Each retailer is limited to no more than two stolen ticket credit requests within any 12-month period.
- E.** The Lottery shall not issue a credit for stolen tickets if the Lottery finds a retailer holding a full product license was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
- F.** If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the retailer holding a full product license, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 2639, effective September 8, 2007 (Supp. 07-3). Amended by final rulemaking at 16 A.A.R. 2388, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 1471, effective August 7, 2012 (Supp. 12-2).

**ARTICLE 3. REPEALED**

**R19-3-301. Repealed**

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-

3). New Section R4-37-301 adopted effective August 17, 1981 (Supp. 81-4). Former Section R4-37-301 repealed, new Section R4-37-301 adopted effective March 6, 1986 (Supp. 86-2). Amended subsections (F) and (I) effective September 26, 1986 (Supp. 86-5). Amended effective September 12, 1989 (Supp. 89-3). Emergency amendment adopted effective April 20, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-2). Emergency amendments permanently adopted with changes effective July 20, 1993 (Supp. 93-3). R19-3-301 recodified from R4-37-301 (Supp. 95-1). Repealed effective October 25, 1996 (Supp. 96-4).

**R19-3-302. Repealed**

**Historical Note**

Adopted as an emergency effective May 26, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-3). New Section R4-37-302 adopted as an emergency effective August 13, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-4). Former Section R4-37-302 adopted R4-37-302 adopted as an emergency now adopted as a permanent rule effective October 15, 1981 (Supp. 81-5). Former Section R4-37-302 repealed, new Section R4-37-302 adopted effective March 6, 1986 (Supp. 86-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective February 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R-19-3-302 recodified from R4-37-302. Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-303. Repealed**

**Historical Note**

Adopted as an emergency effective October 14, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-5). Former Section R4-37-303 adopted as an emergency now adopted as a permanent rule effective December 17, 1981 (Supp. 81-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-303 adopted effective May 2, 1986 (Supp. 86-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective February 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-303 recodified from R4-37-303. (Supp. 95-1). Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-304. Repealed**

**Historical Note**

Adopted as an emergency effective January 13, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-1). Former Section R4-37-304 adopted as an emergency now adopted as a permanent rule effective February 16, 1982 (Supp. 82-1). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-304 adopted effective June 30, 1986 (Supp. 86-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective March 28, 1992 (Supp. 92-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-304 recodified from R4-37-304 (Supp. 95-1). Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-305. Repealed****Historical Note**

Adopted as an emergency effective May 21, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R4-37-305 adopted as an emergency now adopted as a permanent rule effective August 19, 1982 (Supp. 82-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-305 adopted effective August 28, 1986 (Supp. 86-4). Repealed effective September 12, 1989 (Supp. 89-3). Former R4-37-323 adopted and renumbered as R4-37-305 effective November 1, 1989 (Supp. 89-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-305 recodified from R4-37-305 (Supp. 95-1). New Section R19-3-305 adopted effective November 3, 1995 (Supp. 95-4). Section, including Illustration A, B and C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-306. Repealed****Historical Note**

Adopted as an emergency effective July 15, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Former Section R4-37-306 adopted as an emergency now adopted as a permanent rule effective October 20, 1982 (Supp. 82-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-306 adopted as an emergency effective November 14, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-6). Adopted without change as a permanent rule effective February 12, 1987 (Supp. 87-1). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective January 5, 1990 (Supp. 90-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-306 recodified from R4-37-306. (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-307. Repealed****Historical Note**

Adopted as an emergency effective September 24, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-5). Readopted without change as an emergency effective December 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-5). Former Section R4-37-307 adopted as an emergency now adopted as a permanent rule without change effective March 23, 1983 (Supp. 83-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-307 adopted effective January 6, 1987 (Supp. 87-1). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective March 7, 1990 (Supp. 90-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-307 recodified from R4-37-307. (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-308. Repealed****Historical Note**

Adopted as an emergency effective December 28, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Former Section R4-37-308 adopted as an emergency now adopted as a permanent rule without change effective March 23, 1983 (Supp. 83-2). Repealed

effective March 6, 1986 (Supp. 86-2). New Section R4-37-308 adopted effective March 5, 1987 (Supp. 87-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective April 10, 1990 (Supp. 90-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-308 recodified from R4-37-308 (Supp. 95-1). New Section adopted effective December 6, 1995 (Supp. 95-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-309. Repealed****Historical Note**

Adopted as an emergency effective February 18, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Former Section R4-37-309 adopted as an emergency now adopted as a permanent rule with amendments in subsection (F)(1) and (4) effective April 13, 1983 (Supp. 83-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-309 adopted effective April 8, 1987 (Supp. 87-2). Repealed effective September 12, 1989 (Supp. 89-3). New Section adopted effective June 25, 1990 (Supp. 90-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-309 recodified from R4-37-309 (Supp. 95-1). New Section adopted effective January 30, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-310. Repealed****Historical Note**

Adopted as an emergency effective May 18, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-310 adopted as an emergency now adopted as a permanent rule without change effective August 17, 1983 (Supp. 83-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-310 adopted effective June 26, 1987 (Supp. 87-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-310 adopted effective August 2, 1990 (Supp. 90-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-310 recodified from R4-37-310 (Supp. 95-1). New Section adopted effective March 6, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-311. Repealed****Historical Note**

Adopted as an emergency effective July 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-4). Former Section R4-37-301 adopted as an emergency now adopted as a permanent rule without change effective September 29, 1983 (Supp. 83-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-311 adopted effective September 10, 1987 (Supp. 87-3). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-311 adopted effective August 2, 1990 (Supp. 90-3). Labels for subsections (E) and (F) changed (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-311 recodified from R4-37-311 (Supp. 95-1). New Section adopted effective March 6, 1996 (Supp. 96-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-312. Repealed****Historical Note**

Adopted effective September 21, 1983 (Supp. 83-5). Repealed effective March 6, 1986 (Supp. 86-2). New

Section R4-37-312 adopted effective November 12, 1987 (Supp. 87-4). Repealed effective September 12, 1989 (Supp. 89-3). New Section R4-37-312 adopted effective October 12, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-312 recodified from R4-37-312 (Supp. 95-1). New Section adopted effective May 13, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-313. Repealed**

**Historical Note**

Adopted effective December 1, 1983 (Supp. 83-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-313 adopted effective January 7, 1988 (Supp. 88-1). Automatically repealed effective January 7, 1989 (Supp. 89-1). New Section R4-37-313 adopted effective November 6, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-313 recodified from R4-37-313 (Supp. 95-1). New Section adopted effective May 13, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-314. Repealed**

**Historical Note**

Adopted effective January 6, 1984 (Supp. 84-1). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-314 adopted effective March 11, 1988 (Supp. 88-1). Automatically repealed effective March 11, 1989 (Supp. 89-1). New Section R4-37-314 adopted effective December 12, 1990 (Supp. 90-4). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-314 recodified from R4-37-314 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-315. Repealed**

**Historical Note**

Adopted effective March 22, 1984 (Supp. 84-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-315 adopted effective May 5, 1988. Automatically repealed effective May 5, 1989 (Supp. 89-2). New Section R4-37-315 adopted effective January 21, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-315 recodified from R4-37-315 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-316. Repealed**

**Historical Note**

Adopted effective May 31, 1984 (Supp. 84-3). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-316 adopted effective June 30, 1988 (Supp. 88-2). Amended by deleting subsection (C) effective June 12, 1989 (Supp. 89-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-316 recodified from R4-37-316 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-317. Repealed**

**Historical Note**

Adopted effective July 12, 1984 (Supp. 84-4). Repealed

effective September 12, 1989 (Supp. 89-3). New Section R4-37-317 adopted effective January 21, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-317 recodified from R4-37-317 (Supp. 95-1). New Section adopted effective June 21, 1996 (Supp. 96-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-318. Repealed**

**Historical Note**

Adopted effective July 26, 1984 (Supp. 84-4). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-318 adopted effective August 10, 1988 (Supp. 88-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-318 recodified from R4-37-318 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**Illustration “A” Repealed**

**Historical Note**

Adopted effective July 19, 1996 (Supp. 96-3). Illustration A repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-319. Repealed**

**Historical Note**

Adopted effective September 14, 1984 (Supp. 84-5). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-319 adopted effective November 9, 1988 (Supp. 88-4). Section expired November 9, 1989 (Supp. 90-1). R19-3-319 recodified from R4-37-319 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-320. Repealed**

**Historical Note**

Adopted effective November 15, 1984 (Supp. 84-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-320 adopted effective January 6, 1989 (Supp. 89-1). Section expired effective January 6, 1990 (Supp. 90-1). R19-3-320 recodified from R4-37-320 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-321. Repealed**

**Historical Note**

Adopted effective November 15, 1984 (Supp. 84-6). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-321 adopted effective March 10, 1989 (Supp. 89-1). Section expired effective March 10, 1990 (Supp. 90-1). R19-3-321 recodified from R4-37-321 (Supp. 95-1). New Section adopted effective July 19, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-322. Repealed**

**Historical Note**

Adopted effective March 7, 1985 (Supp. 85-2). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-222 adopted effective May 3, 1989 (Supp. 89-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-222 recodified from R4-37-222 (Supp. 95-1). New Section adopted effective August 27, 1996 (Supp. 96-3).

Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-323. Repealed****Historical Note**

Adopted effective May 1, 1985 (Supp. 85-3). Repealed effective March 6, 1986 (Supp. 86-2). New Section R4-37-323 adopted and renumbered as R4-37-305 effected November 1, 1989 (Supp. 89-4). New Section R4-37-323 adopted effective March 25, 1991 (Supp. 91-1). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-323 recodified from R4-37-323 (Supp. 95-1). New Section adopted effective October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-324. Repealed****Historical Note**

Adopted effective June 12, 1985 (Supp. 85-3). Repealed effective May 2, 1986 (Supp. 86-3). New Section adopted effective May 2, 1991 (Supp. 91-2). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-324 recodified from R4-37-324 (Supp. 95-1). New Section adopted effective October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-325. Repealed****Historical Note**

Adopted effective September 4, 1985 (Supp. 85-5). Repealed effective August 28, 1986 (Supp. 86-4). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-325 recodified from R4-37-325 (Supp. 95-1). New Section adopted October 2, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-326. Repealed****Historical Note**

Adopted effective October 28, 1985 (Supp. 85-5). Repealed effective January 6, 1987 (Supp. 87-1). Adopted effective July 3, 1991 (Supp. 91-3). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-326 recodified from R4-37-326 (Supp. 95-1). New Section adopted effective October 25, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-327. Repealed****Historical Note**

Adopted effective January 9, 1986 (Supp. 86-1). Repealed effective January 6, 1987 (Supp. 87-1). New Section adopted effective July 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-327 recodified from R4-37-327 (Supp. 95-1). New Section adopted effective October 24, 1996 (Supp. 96-4). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-328. Repealed****Historical Note**

Adopted effective October 28, 1985 (Supp. 85-5). Repealed effective January 6, 1987 (Supp. 87-1). Adopted effective July 3, 1991 (Supp. 91-3). New Sec-

tion adopted effective September 3, 1991 (Supp. 91-3).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-328 recodified from R4-37-328 (Supp. 95-1). New

Section adopted effective October 24, 1996 (Supp. 96-4).

Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-329. Repealed****Historical Note**

Adopted effective January 9, 1986 (Supp. 86-1). Repealed effective January 6, 1987 (Supp. 87-1). New Section adopted effective September 3, 1991 (Supp. 91-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-329 recodified from R4-37-329 (Supp. 95-1). New Section adopted November 22, 1996 (Supp. 96-4). Section, including Exhibit A, B and C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-330. Repealed****Historical Note**

Adopted effective November 21, 1991 (Supp. 91-4).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-330 recodified from R4-37-330 (Supp. 95-1).

**R19-3-331. Repealed****Historical Note**

Adopted effective December 20, 1991 (Supp. 91-4).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-331 recodified from R4-37-331 (Supp. 95-1).

**R19-3-332. Repealed****Historical Note**

Adopted effective March 13, 1992 (Supp. 92-1).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-332 recodified from R4-37-332 (Supp. 95-1).

**R19-3-333. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-333 recodified from R4-37-333 (Supp. 95-1).

**R19-3-334. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-334 recodified from R4-37-334 (Supp. 95-1).

**R19-3-335. Repealed****Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Repealed effective November 28, 1994 (Supp. 94-4). R19-3-335 recodified from R4-37-335 (Supp. 95-1).

**R19-3-336. Repealed****Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-336 recodified from R4-37-336 (Supp. 95-1).

**R19-3-337. Repealed****Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).

Repealed effective November 28, 1994 (Supp. 94-4).

R19-3-337 recodified from R4-37-337 (Supp. 95-1).

**R19-3-338. Repealed**

**Historical Note**

Adopted effective December 18, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-338 recodified from R4-37-338 (Supp. 95-1).

**R19-3-339. Repealed**

**Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-339 recodified from R4-37-339 (Supp. 95-1).

**R19-3-340. Repealed**

**Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-340 recodified from R4-37-340 (Supp. 95-1).

**R19-3-341. Repealed**

**Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-341 recodified from R4-37-341 (Supp. 95-1).

**R19-3-342. Repealed**

**Historical Note**

Adopted effective December 23, 1992 (Supp. 92-4).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-342 recodified from R4-37-342 (Supp. 95-1).

**R19-3-343. Repealed**

**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-343 recodified from R4-37-343 (Supp. 95-1).

**R19-3-344. Repealed**

**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1).  
Repealed effective November 28, 1994 (Supp. 94-4).  
R19-3-344 recodified from R4-37-344 (Supp. 95-1).

**R19-3-345. Repealed**

**Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-345 recodified from R4-37-345 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-346. Repealed**

**Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-346 recodified from R4-37-346 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-347. Repealed**

**Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-347 recodified from R4-37-347 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-348. Repealed**

**Historical Note**

Adopted effective March 4, 1993 (Supp. 93-1). R19-3-348 recodified from R4-37-348 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-349. Repealed**

**Historical Note**

Adopted effective April 20, 1993 (Supp. 93-2). R19-3-349 recodified from R4-37-349 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-350. Repealed**

**Historical Note**

Reserved; Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-351. Repealed**

**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-351 recodified from R4-37-351 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-352. Repealed**

**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-352 recodified from R4-37-352 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-353. Repealed**

**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-353 recodified from R4-37-353 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-354. Repealed**

**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). R19-3-354 recodified from R4-37-354 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-355. Repealed**

**Historical Note**

Adopted effective October 1, 1993 (Supp. 93-4). R19-3-355 recodified from R4-37-355 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-356. Repealed**

**Historical Note**

Adopted effective October 1, 1993 (Supp. 93-4). R19-3-356 recodified from R4-37-356 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-357. Repealed**

**Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-357 recodified from R4-37-357 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-358. Repealed**

**Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-358 recodified from R4-37-358 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-359. Repealed**

**Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-359 recodified from R4-37-359 (Supp. 95-1). Repealed effective April 18, 1997 (Supp. 97-2).

**R19-3-360. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-360 recodified from R4-37-360 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-361. Repealed****Historical Note**

Adopted effective December 2, 1993 (Supp. 93-4). R19-3-361 recodified from R4-37-361 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-362. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-362 recodified from R4-37-362 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-363. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-363 recodified from R4-37-363 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-364. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-364 recodified from R4-37-364 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-365. Repealed****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). R19-3-365 recodified from R4-37-365 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-366. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-366 recodified from R4-37-366 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-367. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-367 recodified from R4-37-367 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-368. Repealed****Historical Note**

Adopted effective May 23, 1994 (Supp. 94-2). R19-3-368 recodified from R4-37-368 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-369. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-369 recodified from R4-37-369 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-370. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-370 recodified from R4-37-370 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-371. Repealed****Historical Note**

Adopted effective June 10, 1994 (Supp. 94-2). R19-3-371 recodified from R4-37-371 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-372. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-372 recodified from R4-37-372 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-373. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-373 recodified from R4-37-373 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-374. Repealed****Historical Note**

Adopted effective July 15, 1994 (Supp. 94-3). R19-3-374 recodified from R4-37-374 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-375. Repealed****Historical Note**

Adopted effective September 15, 1994 (Supp. 94-3). R19-3-375 recodified from R4-37-375 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-376. Repealed****Historical Note**

Adopted effective September 15, 1994 (Supp. 94-3). R19-3-376 recodified from R4-37-376 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-377. Repealed****Historical Note**

Adopted effective October 11, 1994 (Supp. 94-4). R19-3-377 recodified from R4-37-377 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-378. Repealed****Historical Note**

Adopted effective October 11, 1994 (Supp. 94-4). R19-3-378 recodified from R4-37-378 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-379. Repealed****Historical Note**

Adopted effective November 28, 1994 (Supp. 94-4). R19-3-379 recodified from R4-37-379 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-380. Repealed****Historical Note**

Adopted effective November 28, 1994 (Supp. 94-4). R19-3-380 recodified from R4-37-380 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-381. Repealed****Historical Note**

Adopted effective December 20, 1994 (Supp. 94-4). R19-3-381 recodified from R4-37-381 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

effective May 13, 1997 (Supp. 97-2).

**R19-3-382. Repealed**

**Historical Note**

Adopted effective January 13, 1995 (Supp. 95-1). R19-3-382 recodified from R4-37-382 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-383. Repealed**

**Historical Note**

Adopted effective January 13, 1995 (Supp. 95-1). R19-3-383 recodified from R4-37-383 (Supp. 95-1). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-384. Repealed**

**Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-385. Repealed**

**Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-386. Repealed**

**Historical Note**

Adopted effective May 11, 1995 (Supp. 95-2). Repealed effective May 13, 1997 (Supp. 97-2).

**R19-3-387. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-388. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-389. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-390. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-391. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-392. Repealed**

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-393. Repealed**

**Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-394. Repealed**

**Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit A and B, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-395. Repealed**

**Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit C, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-396. Repealed**

**Historical Note**

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit D, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-397. Repealed**

**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-398. Repealed**

**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**R19-3-399. Repealed**

**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

**ARTICLE 4. DESIGN AND OPERATION OF ON-LINE GAMES**

**R19-3-401. Definitions**

Definitions. In this Article, unless the context otherwise requires, these words and terms shall have the following meanings:

1. "Cash Value" means payment of the Division 1 (jackpot) prize pool share amount paid in one lump sum as provided in the prize structure in the game profile.
2. "Drawing" means the process used to randomly select the winning play symbols from the defined game matrix.
3. "On-line Lottery Game" means a game where tickets are purchased through a network of Arizona Lottery-issued computer terminals located in retail outlets. The terminals are linked to a central computer that records the wagers.
4. "Fixed payout" means a set prize dollar amount for that specific prize in the prize structure.
5. "Game board" or "board" means the area of the selection slip which contain a matrix that lists all the offered play symbols. More than one game board may appear on the selection slip.
6. "Game option" means a game feature that is tied to a specific game which the player has a choice to play.

7. "Game play" or "play" means the selected play symbols which appear on a ticket as a single wager. More than one game play may appear on a ticket.
8. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an on-line game.
9. "Game ticket" or "ticket" means a receipt produced by a Lottery-issued terminal evidencing the purchase of a participation in a game or game option. The ticket contains a security code, ticket price, a retailer number, a serial number and the game symbols purchased for one or more specific drawings.
10. "Matrix" means the number of selections a player may choose from a predetermined pool of play symbols.
11. "Multiple winners" means a situation in which more than one claimant redeems an individual share in one wager.
12. "Pari-mutuel" means a system in which those holding winning tickets divide the total prize amount in proportion to their wagers.
13. "Play style" means the description in the game profile of the matrix, play symbols, and the manner of selecting the winning play symbols.
14. "Play symbols" means the numbers, letters, symbols, or pictures used in the matrix to determine if a player is entitled to a prize.
15. "POWERBALL" means a multi-state game that is conducted pursuant to the rules of the Multi-State Lottery Association (MUSL) and approved by a game profile.
16. "Prize category" means the value of a specific prize.
17. "Prize structure" means the chart of the prize value, number of prizes or prize payout percentage, any fixed payments, any pari-mutuel payments, and the odds of winning the prizes.
18. "Prohibited games" mean on-line or electronic keno or internet games.
19. "Quick pick" means the random selection by a terminal of one or more play symbols from the defined game matrix.
20. "Selection slip" means a preprinted set of game boards provided by the Lottery upon which the player selects play symbols and game options. Each selection slip may have multiple game boards.
21. "Share" means any single winning game play, which is equal to any other share in the same prize division.
22. "Terminal" means a device authorized by the Lottery linked to a central computer for the purpose of issuing Lottery tickets and entering, receiving, and processing Lottery transactions.
23. "Winning numbers or winning play symbols" means the numbers or play symbols from the defined game matrix randomly selected at each drawing which determine winning game plays contained on a ticket.

#### Historical Note

Adopted as an emergency effective June 10, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-401 adopted as an emergency effective June 10, 1983, now adopted without change as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsections (A), (D), (E), (J), (K) effective September 7, 1984 (Supp. 84-4). Amended subsection (K) effective March 14, 1985 (Supp. 85-2). Amended effective September 26, 1986 (Supp. 86-5). Amended effective June 29, 1989 (Supp. 89-2). Amended as an emergency effective September 25, 1991, pursuant to

A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. Emergency amendments permanently adopted effective March 3, 1992 (Supp. 92-1).

Amended effective March 9, 1992 (Supp. 92-1). Amended effective April 4, 1994 (Supp. 94-2). R19-3-401 recodified from R4-37-401 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### R19-3-402. Game Profile

- A. Each game or game option shall have a Game Profile and at a minimum, the Profile shall contain the following information:
  1. Game name or game option name;
  2. Matrix/description of how to play and win;
  3. Retail sales price;
  4. Purchase conditions and characteristics;
  5. Play symbols and prize symbols, if any;
  6. Prize structure, including the approximate odds, the prize amounts available, the prize pool percentage, if alternate prize structures are to be used, any subsection (B) provisions, and any special Division 1 (jackpot) prize specifications;
  7. Special features, if any; and
  8. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. Each on-line game or option may include specific variants that provide added or alternative methods of winning. Any variants shall be described in the Game Profile.
- C. The Commission shall approve the Game Profile prior to the game being sold to the public.

#### Historical Note

Adopted effective June 27, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### Exhibit 1. Repealed

#### Historical Note

Exhibit 1 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### Exhibit 2. Repealed

#### Historical Note

Exhibit 2 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### Exhibit 3. Repealed

#### Historical Note

Exhibit 3 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### Exhibit 4. Repealed

#### Historical Note

Exhibit 4 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### Exhibit 5. Repealed

#### Historical Note

Exhibit 5 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).



**Exhibit 6. Repealed**

**Historical Note**

Exhibit 6 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 7. Repealed**

**Historical Note**

Exhibit 7 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 8. Repealed**

**Historical Note**

Exhibit 8 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 9. Repealed**

**Historical Note**

Exhibit 9 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 10. Repealed**

**Historical Note**

Exhibit 10 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 11. Repealed**

**Historical Note**

Exhibit 11 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 12. Repealed**

**Historical Note**

Exhibit 12 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 13. Repealed**

**Historical Note**

Exhibit 13 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 14. Repealed**

**Historical Note**

Exhibit 14 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**Exhibit 15. Repealed**

**Historical Note**

Exhibit 15 adopted effective June 27, 1997 (Supp. 97-2).  
Repealed by final rulemaking at 11 A.A.R. 393, effective  
February 15, 2005 (Supp. 04-4).

**R19-3-403. Ticket Purchases, Characteristics, and Restrictions**

- A. To play an on-line game, a player shall select the specified number of play symbols from the defined game matrix approved in the Game Profile for input into the terminal. Selection methods include:

1. Communicating the play symbols and game options to a retailer, or
  2. Marking the selection slip and submitting the selection slip to a retailer, or
  3. Requesting a "Quick Pick," or
  4. Marking a "Quick Pick" box on a selection slip.
- B. Game plays must be entered into the Lottery terminal manually or by inserting a Lottery selection slip that is hand marked by the player. Facsimiles, simulations, copies of selection slips, or other materials not printed or approved by the Lottery are prohibited from use.
- C. To claim a prize, a player must submit the original ticket for validation. Selection slips are not proof of purchase.
- D. The ticket holder is responsible for the accuracy of ticket data. The Lottery shall not be liable for ticket errors.

**Historical Note**

Adopted effective April 30, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-404. Drawings**

- A. The drawings shall be held at the times and places established in the Game Profile.
- B. The on-line game drawing shall randomly select the winning play symbols from those defined in the Game Profile. Mechanical, electrical, or computerized drawing methods may be used to make the random selection.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-405. Determination of a Winning Game Play**

- A. A player shall win the prize(s) indicated in the prize structure by matching the winning play symbols selected at the drawing to the play symbols selected by the player.
- B. Players may win on each game play on a ticket.
- C. There may be multiple winning patterns on a single ticket that match winning patterns described in the Game Profile.
- D. The prize structure ordered in the Game Profile shall determine the pari-mutuel and/or fixed prize amount to be paid on a single winning game play.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-406. Ticket Ownership and Responsibility; Prize Payment**

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The Director shall recognize as the owner of a winning on-line ticket the person whose signature appears upon the ticket in the area designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall com-

- plete an individual claim form to receive the claimant's portion of the prize.
4. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning on-line ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C.** Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the set-off and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support set-off shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the set-off exists and must be commenced within 30 days of the receipt of this notification. The notification shall include the name and address of the agency with which to file the appeal.
  5. If, after deducting withholding taxes and the set-off, a portion of the prize remains then that portion shall be paid to the winner with the notification of set-off.
  6. The amount of set-off shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
  7. Upon a determination that a set-off is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D.** Prizes shall be paid by cash, check, or if requested by the player, by Lottery tickets.
1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in Section R19-3-408.
  2. Each winning game play wins the prize amount specified in the Game Profile.
- E.** The Lottery is not responsible for lost or stolen tickets.
6. Able to pass all other confidential validation tests determined by the Director; and
  7. Validated in accordance with the provisions of sections R19-3-406 and R19-3-408.
  8. The ticket data is:
    - a. Recorded in the designated central computer system prior to the drawing;
    - b. In agreement with the computer record;
    - c. In the Lottery's official file of winning tickets;
  9. Any winning game play on the ticket consists of a selected set of play symbols from the defined game matrix.
  10. Has not been previously paid.
- C.** If the ticket fails to pass any of the requirements in Section R19-3-407(B), the ticket is void and ineligible for any prize payout.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### R19-3-408. Procedure for Claiming Prizes

- A.** To claim a prize of up to and including \$599, the claimant shall present the ticket to any participating on-line licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay a winner a prize up to and including \$100 and may pay a winner a prize up to and including \$599 provided that:
1. All of the ticket validation criteria in Section R19-3-407 has been satisfied; and
  2. A proper validation slip, which is an authorization to pay, has been issued by the terminal.
- B.** To claim a prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt set-off amounts and/or withheld taxes.
  2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C.** If a prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D.** The Lottery is discharged of all liability upon payment of the prize money.
- E.** Payment of prize money shall not be accelerated ahead of its normal date of payment.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

#### R19-3-409. Claim Period

- A.** In order for the claimant to receive payment, a winning on-line game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the game drawing date.
- B.** If a claimant presents a valid winning ticket to a retailer for payment on the 180th calendar day following the game drawing date and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.

**Historical Note**  
New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

#### R19-3-407. Ticket Validation Requirements

- A.** Each on-line game ticket shall be validated prior to the payment of a prize.
- B.** To be eligible for a prize, a ticket holder must present a ticket meeting all of the following requirements:
1. Issued by the Lottery through a retailer, from a terminal, in an authorized manner;
  2. Intact and not mutilated or tampered with in any manner;
  3. Not defectively printed;
  4. Not a reprinted ticket stating "Not for Sale" on the ticket;
  5. Not counterfeit or stolen;

- C. The end of an on-line game shall be designated by the Director and on file at the Lottery.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-410. Disputes Concerning a Ticket**

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket of equivalent sales price for any subsequent drawing from the same game.
- B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from the same game.
- C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a Grand Prize drawing, the Director is authorized to place any person's eligible entry that was not entered in the Grand Prize drawing into a subsequent Grand Prize drawing or drawings.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-411. Prize Fund**

- A. Not less than 50 percent of the total annual revenue accruing from the sale of on-line game tickets shall be deposited in the state lottery prize fund for payment of prizes to the holders of winning tickets.
- B. If an on-line game is terminated for any reason, any remaining prize monies shall be held by the Lottery for a period of 180 days from the date of the last drawing and then used for additional prizes in any other Lottery game.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**R19-3-412. Multi-State Lottery Association Games**

- A. The Arizona Lottery is a participating member of the Multi-State Lottery Association (MUSL) referred to as a "party lottery" in the MUSL game rules.
- B. A game profile approved by the Commission and conforming to the information required in R19-3-403 shall be on file at the Arizona State Lottery for all MUSL games played in Arizona.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

**ARTICLE 5. PROCUREMENTS****R19-3-501. Definitions**

In this Article, unless the context otherwise requires:

1. "Best interests of the Lottery" means advantageous to the Lottery.
2. "Bid" means an offer in response to solicitation.
3. "Business" means a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.
4. "Change order" means a document, signed by the Director, which directs the contractor to make a change that the contract authorizes the Director to order.
5. "Competitive range" means the range determined on the basis of the criteria stated in the solicitation and shall include all offers that have a reasonable chance of being selected for award.

6. "Contract" means an agreement, regardless of what it is called, for the procurement of Lottery equipment, tickets, and related materials.
7. "Contract amendment" means a written alteration in the terms or conditions of a contract accomplished by mutual action of the parties to the contract or a unilateral exercise of a right contained in the contract.
8. "Contractor" means a person who has a contract with the Lottery.
9. "Cost analysis" means the evaluation of cost data.
10. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been incurred or are expected to be incurred by the contractor in performing the contract.
11. "Cost-plus-a-percentage-of-cost-contract" means the parties to a contract agree that the fee will be a predetermined percentage of the cost of work performed and the contract does not limit the cost and fee before authorization of performance.
12. "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are reasonable, allowable, and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.
13. "Days" means calendar days and is computed under A.R.S. § 1-243, unless otherwise specified in the solicitation or contract.
14. "Defective data" means data that is inaccurate, incomplete, or outdated.
15. "Director" means the Executive Director of the State Lottery.
16. "Discussions" means oral or written negotiation between the Lottery and an offeror during which information is exchanged about specifications, scope of work, terms and conditions, and price included in an initial proposal. Communication with an offeror for the sole purpose of clarification does not constitute "discussions."
17. "Filed" means delivered to the office of the Director. A time/date stamp affixed to a document by the office of the Director when the document is delivered determines the time of filing.
18. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, bylaws, or similar documents.
19. "Incremental award" means a grant of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
20. "Interested party" means an offeror or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an offeror or prospective offeror has an economic interest depends upon the circumstances of each case.
21. "Invitation for bids" means all documents, whether attached or incorporated by reference, that are used to solicit bids in accordance with R19-3-508.
22. "Minor informality" means any mistake, excluding a judgmental error, that has negligible effect on price, quantity, quality, delivery, or other contractual terms and the waiver or correction of which does not prejudice other bidders or offerors.
23. "Multiple award" means a grant of an indefinite quantity contract for one or more similar materials or services to more than one bidder or offeror.

24. "Multi-step sealed bidding" means a two-phase bidding process consisting of a technical phase and a price phase.
25. "Negotiation" means an exchange or series of exchanges between the Lottery and an offeror or contractor that allows the Lottery or the offeror or contractor to revise an offer or contract, unless revision is specifically prohibited by these rules or statutes.
26. "Offer" means a response to a solicitation.
27. "Offeror" means a person that responds to a solicitation.
28. "Person" means any corporation, limited liability company, limited liability partnership, partnership, business, individual, union, committee, club, other organization, or group of individuals.
29. "Price data" means information concerning prices, including profit, for materials, services, or construction substantially similar to the materials, services, or construction to be procured under a contract or subcontract. In this definition, "prices" refers to offered selling prices, historical selling prices, or current selling prices of the items to be purchased.
30. "Procurement" means all functions that pertain to obtaining any materials or services for the design or operation of a Lottery game or the purchase of Lottery equipment, tickets, and related materials.
31. "Procurement file" means the official records file of the Director whether located in the office of the Director or at a public procurement unit.
32. "Procurement request" means the document that initiates a procurement.
33. "Proposal" means an offer submitted in response to a solicitation.
34. "Prospective offeror" means a person that expresses an interest in a specific solicitation.
35. "Purchase description" means the words used in a solicitation to describe Lottery materials to be procured and includes specifications attached to, or made a part of, the solicitation.
36. "Purchase request" or "purchase requisition" means a document or electronic transmission in which the Director requests that a contract be entered into for a specific need and may include a description of a requested item, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information needed to make a written determination required by this Article.
37. "Request for proposals" means all documents, whether attached or incorporated by reference, that are used to solicit proposals in accordance with R19-3-509.
38. "Responsible bidder or offeror" means a person who has the capability to perform contract requirements and the integrity and reliability necessary to ensure a good faith performance.
39. "Responsive bidder or offeror" means a person who submits a bid that conforms in all material respects to the invitation for bids or request for proposals.
40. "Reverse auction" means a procurement method in which offerors are invited to bid on specified goods or services through online bidding and real-time electronic bidding. During an electronic bidding process, offerors' prices or relative ranking are available to competing offerors and offerors may modify their offer prices until the closing date and time.
41. "Services" means the labor, time, or effort furnished by a contractor with no expectation that a specific end product other than required reports and performance will be delivered. Services does not include employment agreements or collective bargaining agreements.
42. "Small business" means a for-profit or not-for-profit organization, including its affiliates, with fewer than 100 full-time employees or gross annual receipts of less than four million dollars for the last complete fiscal year.
43. "Solicitation" means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request issued by the Lottery to invite a person to submit an offer.
44. "Specification" means a description of the physical or functional characteristics, or of the nature of a Lottery material or service. Specification includes a description of any requirement for inspecting, testing, or preparing a Lottery material for delivery.
45. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with the Lottery.
46. "Suspension" means an action taken by the Director or the state procurement office that temporarily disqualifies a person from participating in a state procurement process.
47. "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.
48. "Trade secret" means information, including a formula, pattern, device, compilation, program, method, technique, or process, that is the subject of reasonable efforts to maintain its secrecy and that derives independent economic value, actual or potential, as a result of not being generally known to and not being readily ascertainable by legal means.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-501 repealed, new Section R4-37-501 renumbered from R4-37-502 and amended effective May 7, 1990 (Supp. 90-2). R19-3-501 recodified from R4-37-501 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-502. Written Determination

- A. If a written determination is required under applicable law, the procurement officer shall include the basis for the action taken in the written determination.
- B. The procurement officer shall place the written determination into the Lottery's procurement file.
- C. A procurement file is considered the official records file of the Lottery.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-502 renumbered to R4-37-501, new Section R4-37-502 renumbered from R19-3-503 and amended effective May 7, 1990 (Supp. 90-2). R19-3-502 recodified from R4-37-502 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-503. Confidential Information**

- A.** If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information; a person shall include with the submission a statement supporting this assertion. A person shall clearly designate the beginning and end of any information that is designated a trade secret or other proprietary information, using the term "confidential." Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B.** Until a final determination is made under subsection (D), the procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by the procurement officer to have a legitimate Lottery interest.
- C.** Upon protest to a confidential submission, the procurement officer shall request the offeror and protestor submit factual and legal comments on the issue by a date certain.
- D.** After reviewing the statements or expiration of the time to comment, or both, the procurement officer shall make a determination that:
  1. The designated information is confidential and the procurement officer shall not disclose the information except to those individuals deemed by the procurement officer to have a legitimate Lottery interest;
  2. The designated information is not confidential; or
  3. Additional information is required before a final confidentiality determination can be made.
- E.** If the procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination. The procedures and requirements for review in A.R.S. Title 41, Chapter 6, Article 10 apply to such a review by the Director.
- F.** The procurement officer may release information designated as confidential under subsection (A) if:
  1. A request for review is not received by the procurement officer within the time period specified in the notice; or
  2. The Director, after review of the recommended findings of fact and conclusions of law, makes a written determination that the designated information is not confidential.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-503 renumbered to R4-37-502, new Section R4-37-503 renumbered from R19-3-504 and amended effective May 7, 1990 (Supp. 90-2). R19-3-503 recodified from R4-37-503 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-504. General Provisions**

- A.** A person that participates in any aspect of a specific procurement as an advisor to the Lottery shall not receive any direct or indirect benefit from a contract for the procurement.
- B.** The Director shall not pay for any material or service unless fully approved.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-504 renumbered to R4-37-503, new Section R4-37-504 renumbered from R4-37-505 and amended effective May 7, 1990

(Supp. 90-2). R19-3-504 recodified from R4-37-504 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Amended by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-505. Prospective Suppliers List**

- A.** The procurement officer shall compile and maintain a prospective suppliers list. To be included on the prospective suppliers list, a person shall register with the procurement officer the company name, address, e-mail, contact name and area of product or service interest.
- B.** The procurement officer may remove suppliers from the prospective suppliers list if a notice or e-mail sent to the supplier is returned. The procurement officer shall maintain a record of the date and reason for removal of a supplier from the prospective suppliers list.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R19-3-505 renumbered to R4-37-504, new Section R19-3-505 renumbered from R4-37-507 and amended effective May 7, 1990 (Supp. 90-2). R19-3-505 recodified from R4-37-505 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-506. Source Selection Method: Determination Factors**

- A.** The procurement officer shall determine the applicable source selection method for a procurement, estimating the aggregate dollar amount of the contract and ensuring that the procurement is not artificially divided, fragmented, or combined to circumvent A.R.S. §§ 5-559 and 41-2501(F).
- B.** If the procurement officer believes that an existing Arizona state contract is sufficient to satisfy the Lottery's requirements, the procurement officer may procure those materials and services covered by such contracts.
- C.** Before soliciting for offers for a competitive sealed proposal, the procurement officer shall determine in writing that an invitation for bid is not practicable or advantageous to the Lottery. Competitive sealed bidding may not be practicable or advantageous if it is necessary to:
  1. Use a contract other than a fixed-price type;
  2. Negotiate with offerors concerning the technical and price aspects of their offers and any other aspects of their offer or the solicitation;
  3. Permit offerors to revise their offers; or
  4. Compare the different price, quality, and contractual factors of the offers submitted.
- D.** The procurement officer may make a class determination that it is either not practicable or not advantageous to the Lottery to procure specified types of materials or services by invitation for bid. The procurement officer may modify or revoke a class determination at any time.
- E.** The procurement officer shall not award a contract or incur an obligation on behalf of the Lottery unless sufficient funds are available for the procurement, consistent with A.R.S. § 35-154. If it is reasonable to believe that sufficient funds will become available for a procurement, the procurement officer may issue a notice with the solicitation indicating that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3).

ant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-506 repealed, new Section R4-37-506 renumbered from R4-37-508 and amended effective May 7, 1990 (Supp. 90-2). R19-3-506 recodified from R4-37-506 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the first A.R.S. citation in subsection (A) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

#### **R19-3-507. Solicitation**

- A.** The procurement officer shall issue a solicitation at least 14 days before the offer due date and time, unless the procurement officer determines a shorter time is necessary for a particular procurement. If a shorter time is necessary, the procurement officer shall document the specific reasons in the procurement file.
- B.** The procurement officer shall:
1. Advertise the procurement not less than two weeks before offer due date at least one time in a newspaper of general circulation and place the notice on the Lottery web site; and
  2. At a minimum, provide written notice to the prospective suppliers that have registered with the Lottery's procurement officer for the specific material, service, or construction solicited.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-507 renumbered to R4-37-505, new Section R4-37-507 renumbered from R4-37-509 and amended effective May 7, 1990 (Supp. 90-2). R19-3-507 recodified from R4-37-507 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-508. Bid Solicitation Requirements**

The procurement officer shall include the following in the solicitation:

1. Instruction to offerors, including:
  - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers or other documents will be received, and the offer acceptance period;
  - b. The deadline date for requesting a substitution or exception to the solicitation;
  - c. The manner by which the offeror is required to acknowledge amendments;
  - d. The minimum required information in the offer;
  - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
  - f. Any specific responsibility criteria;
  - g. Whether the offeror is required to submit samples, descriptive literature, or technical data with the offer;
  - h. Any evaluation criteria;

- i. A statement of where documents incorporated by reference are available for inspection and copying;
  - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
  - k. Certification by the offeror that submission of the offer did not involve collusion or other anticompetitive practices;
  - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
  - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
  - n. Any bid security required;
  - o. The means required for submission of an offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
  - p. Any designation of the specific bid items and amounts to be recorded at offer opening; and
  - q. Any other offer submission requirements;
2. Specifications, including:
    - a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
    - b. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to the brands designated qualify for consideration; and
    - c. Any other specification requirements;
  3. Terms and Conditions, including:
    - a. Whether the contract will include an option for extension; and
    - b. Any other contract terms and conditions.

#### **Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-508 renumbered to R4-37-506, new Section R4-37-508 renumbered from R4-37-510 and amended effective May 7, 1990 (Supp. 90-2). R19-3-508 recodified from R4-37-508 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-509. Request for Proposal Solicitation Requirements**

The procurement officer shall include the following in the solicitation:

1. Instructions to offerors, including:
  - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period;
  - b. The deadline date for requesting a substitution or exception to the solicitation;

- c. The manner by which the offeror is required to acknowledge amendments;
  - d. The minimum information required in the offer;
  - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
  - f. Any specific responsibility or susceptibility criteria;
  - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer;
  - h. Evaluation factors and the relative order of importance;
  - i. A statement of where documents incorporated by reference are available for inspection and copying;
  - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
  - k. Certification by the offeror that submission of the offer did not include collusion or other anticompetitive practices;
  - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
  - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
  - n. Any offer security required;
  - o. The means required for submission of offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
  - p. Any cost or pricing data required;
  - q. The type of contract to be used;
  - r. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award and that fall within the competitive range; and
  - s. Any other offer requirements specific to the solicitation.
2. Specifications, including:
- a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
  - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
  - c. Any other specification requirements specific to the solicitation.
3. Terms and Conditions, including:
- a. Whether the contract is to include an extension option; and
  - b. Any other contract terms and conditions.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-509 renum-

bered to R4-37-507, new Section R4-37-509 renumbered from R4-37-512 and amended effective May 7, 1990 (Supp. 90-2). R19-3-509 recodified from R4-37-509 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-510. Pre-Offer Conferences**

The procurement officer may conduct one or more pre-offer conferences. If a pre-offer conference is conducted, it shall be not less than seven days before the offer due date and time, unless the procurement officer makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during a pre-offer conference are not amendments to the solicitation.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-510 renumbered to R4-37-508, new Section R4-37-510 renumbered from R4-37-513 and amended effective May 7, 1990 (Supp. 90-2). R19-3-510 recodified from R4-37-510 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-511. Solicitation Amendment**

- A. The procurement officer shall issue a solicitation amendment to do any or all of the following:
  - 1. Make changes in the solicitation;
  - 2. Correct defects or ambiguities;
  - 3. Provide additional information or instructions; or
  - 4. Extend the offer due date and time if the procurement officer determines that an extension is in the best interest of the Lottery.
- B. If a solicitation is changed by a solicitation amendment, the procurement officer shall notify suppliers to whom the procurement officer distributed the solicitation.
- C. It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in the manner specified in the solicitation or solicitation amendment on or before the offer due date and time.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-511 repealed, new Section R4-37-511 renumbered from R4-37-514 and amended effective May 7, 1990 (Supp. 90-2). R19-3-511 recodified from R4-37-511 (Supp. 95-1). Former Section R19-3-511 renumbered to R19-3-513 and amended; new Section R19-3-511 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-512. Modification or Withdrawal of Offer Before Offer Due Date and Time**

- A. An offeror may modify or withdraw its offer, in writing, before the offer due date and time.
- B. The procurement officer shall place the document submitted by the offeror in the procurement file as a record of the modification or withdrawal.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-512 renumbered to R4-37-509, new Section R4-37-512 renumbered from R4-37-515 and amended effective May 7, 1990 (Supp. 90-2). R19-3-512 recodified from R4-37-512 (Supp. 95-1). Former Section R19-3-512 renumbered to R19-3-514 and amended; new Section R19-3-512 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-513. Cancellation of a Solicitation Before Offer Due Date and Time**

- A. Based on the best interest of the Lottery, the procurement officer may cancel a solicitation before the offer due date and time.
- B. The procurement officer shall notify suppliers to whom the procurement officer distributed the solicitation.
- C. The procurement officer shall not open offers after cancellation. The procurement officer may discard the offer after 30 days from notice of solicitation cancellation, unless the offeror requests the offer be returned.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-513 renumbered to R4-37-510, new Section R4-37-513 renumbered from R19-3-516 and amended effective May 7, 1990 (Supp. 90-2). R19-3-513 recodified from R4-37-513 (Supp. 95-1). Former Section R19-3-513 renumbered to R19-3-515 and amended; new Section R19-3-513 renumbered from R19-3-511 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-514. Receipt, Opening, and Recording of Offers**

- A. The procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The procurement officer shall store each unopened offer in a secure place until the offer due date and time.
- B. The Lottery may open an offer to identify the offeror. If this occurs, the procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The procurement officer shall secure the offer and retain it for public opening.
- C. The procurement officer shall open offers publicly, in the presence of one or more witnesses, after the offer due date and time. The procurement officer shall announce the name of the offeror; the amount of each offer; and any other relevant information as determined by the procurement officer. The procurement officer shall record the name of each offeror, and the amount of each offer. The reader and the witness shall sign the record of offers and place it in the procurement file. The procurement officer shall make the record of offers available for public viewing.
- D. Except for the information identified in subsection (C), the procurement officer shall ensure that information contained in the offer remains confidential until the contract becomes effective and binding and is shown only to those persons assisting in the evaluation process and the Lottery Commissioners, after award, and before the contract becomes effective and binding.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-514 renumbered to R4-37-511, new Section R4-37-514 renumbered from R4-37-517 and amended effective May 7, 1990 (Supp. 90-2). R19-3-514 recodified from R4-37-514 (Supp. 95-1). Former Section R19-3-514 renumbered to R19-3-516 and amended; new Section R19-3-514 renumbered from R19-3-512 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-515. Late Offers, Modifications, Withdrawals**

- A. If an offer, modification, or withdrawal is received after the due date and time, at the location designated in the solicitation, the procurement officer shall determine the offer, modification, or withdrawal as late.
- B. The procurement officer shall reject a late offer, modification, or withdrawal unless:
  - 1. The document is received before the contract award at the location designated in the solicitation; and
  - 2. The document would have been received by the offer due date and time, but for the action or inaction of Lottery personnel.
- C. Upon receiving a late offer, modification, or withdrawal, the procurement officer shall:
  - 1. If the document is hand delivered, refuse to accept delivery; or
  - 2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the offeror. The procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- D. The procurement officer shall document a refusal under subsection (C)(1) and place the document or a copy of the notice required in subsection (C)(2) in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-515 renumbered to R4-37-512, new Section R4-37-515 renumbered from R4-37-518 and amended effective May 7, 1990 (Supp. 90-2). R19-3-515 recodified from R4-37-515 (Supp. 95-1). Amended effective December 16, 1997 (Supp. 97-4). Former Section R19-3-515 renumbered to R19-3-517 and amended; new Section R19-3-515 renumbered from R19-3-513 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-516. Cancellation of Solicitation After Receipt of Offers and Before Award**

- A. Based on the best interest of the Lottery, the procurement officer may cancel a solicitation after offer due date and time. The procurement officer shall prepare a written justification for cancellation and place it in the procurement file.
- B. The procurement officer shall notify offerors of the cancellation in writing.
- C. The procurement officer shall retain offers received under the canceled solicitation in the procurement file. If the Lottery intends to issue another solicitation within six months after



cancellation of the procurement, the procurement officer shall withhold the offers from public inspection. After award of a contract under the subsequent solicitation, the procurement officer shall make offers submitted in response to the cancelled solicitation available for public inspection except for information determined to be confidential pursuant to R19-3-503.

- D. In the event of cancellation, the procurement officer shall promptly return any bid security provided by an offeror.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-516 renumbered to R4-37-513, new Section R4-37-516 renumbered from R4-37-519 and amended effective May 7, 1990 (Supp. 90-2). R19-3-516 recodified from R4-37-516 (Supp. 95-1). Former Section R19-3-516 renumbered to R19-3-518 and amended; new Section R19-3-516 renumbered from R19-3-514 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-517. One Offer Received**

If only one offer is received in response to a solicitation, the procurement officer shall either:

1. Award the contract to the offeror and prepare a written determination that:
  - a. The price submitted is fair and reasonable under R19-3-547;
  - b. The offer is responsive; and
  - c. The offeror is responsible; or
2. Reject the offer and:
  - a. Resolicit for new offers;
  - b. Cancel the procurement; or
  - c. Use a different source selection method authorized under these rules.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-517 renumbered to R4-37-514, new Section R4-37-517 renumbered from R4-37-520 and amended effective May 7, 1990 (Supp. 90-2). R19-3-517 recodified from R4-37-517 (Supp. 95-1). Former Section R19-3-517 renumbered to R19-3-519 and amended; new Section R19-3-517 renumbered from R19-3-515 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-518. Offer Mistakes Discovered After Offer Opening and Before Award**

- A. If an apparent mistake in an offer, relevant to the award determination, is discovered after opening and before award, the procurement officer shall contact the offeror for written confirmation of the offer. The procurement officer shall designate a time-frame within which the offeror shall either:
1. Confirm that no mistake was made and assert that the offer stands as submitted; or
  2. Acknowledge that a mistake was made, and include all of the following in a written response:
    - a. Explanation of the mistake and any other relevant information;

- b. A request for correction including the corrected offer or a request for withdrawal; and
- c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.

- B. An offeror who discovers a mistake in its offer may request correction or withdrawal in writing and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- C. The procurement officer may permit an offeror to correct a mistake if the mistake and the intended offer are evident in the uncorrected offer; for example, an error in the extension of unit prices. The procurement officer shall not permit a correction that is prejudicial to the Lottery or fair competition.
- D. The procurement officer shall permit an offeror to furnish information called for in the solicitation but not supplied if the intended offer is evident and submittal of the information is not prejudicial to other offerors.
- E. The procurement officer shall make a written determination of whether correction or withdrawal is permitted, based on whether the action is consistent with fair competition and in the best interest of the Lottery.
- F. If the offeror fails to act under subsection (A) the offeror is considered nonresponsive and the procurement officer shall place a written determination that the offeror is nonresponsive in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-518 renumbered to R4-37-515, new Section R4-37-518 renumbered from R4-37-521 and amended effective May 7, 1990 (Supp. 90-2). R19-3-518 recodified from R4-37-518 (Supp. 95-1). Former Section R19-3-518 renumbered to R19-3-520 and amended; new Section R19-3-518 renumbered from R19-3-516 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-519. Extension of Offer Acceptance Period**

- A. To extend the offer acceptance period, the procurement officer shall notify all offerors in writing of an extension and request written concurrence from each offeror.
- B. To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The procurement officer shall reject an offer as nonresponsive if written concurrence is not provided as requested.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-519 renumbered to R4-37-516, new Section R4-37-519 renumbered from R4-37-522 and amended effective May 7, 1990 (Supp. 90-2). R19-3-519 recodified from R4-37-519 (Supp. 95-1). Former Section R19-3-519 renumbered to R19-3-521 and amended; new Section R19-3-519 renumbered from R19-3-517 and amended effective December

16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-520. Determination of Not Susceptible for Award**

- A.** The procurement officer may determine at any time during the evaluation period and before award that an offer is not susceptible for award. The procurement officer shall place a written determination, based on one or more of the following, in the procurement file:
1. The offer fails to substantially meet one or more of the mandatory requirements of the solicitation;
  2. The offer fails to comply with any susceptibility criteria identified in the solicitation; or
  3. The offer is not within the competitive range in comparison to other offers based on the criteria set forth in the solicitation. When there is doubt as to whether an offer is in the competitive range, the offer should be included.
- B.** The procurement officer shall promptly notify the offeror in writing of the final determination that the offer is not susceptible for award unless the procurement officer determines notification to the offeror would compromise the Lottery's ability to negotiate with other offerors.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-520 renumbered to R4-37-517, new Section R4-37-520 renumbered from R4-37-523 and amended effective May 7, 1990 (Supp. 90-2). R19-3-520 recodified from R4-37-520 (Supp. 95-1). Former Section R19-3-520 renumbered to R19-3-522 and amended; new Section R19-3-520 renumbered from R19-3-518 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-521. Bid Evaluation**

- A.** The procurement officer shall evaluate offers to determine which offer provides the lowest cost to the Lottery in accordance with any objectively measurable factors set forth in the solicitation. Examples of such factors include, but are not limited to, transportation cost, energy cost, ownership cost, and any other identifiable cost or life cycle cost formula. The factors need not be precise predictors of actual future costs, but to the extent possible the factors shall be reasonable estimates based upon information the procurement officer has available concerning future use.
- B.** The procurement officer shall consider life cycle costs and application benefits when evaluating offers for the procurement of material or services information systems and telecommunication systems.
- C.** The procurement officer shall conduct an evaluation to determine whether an offeror is responsive, based upon the requirements set forth in the solicitation. The procurement officer shall reject as nonresponsive any offer that does not meet the solicitation requirements.
- D.** If there are two or more low, responsive offers from responsible offerors that are identical in price, the procurement officer shall make the award by drawing lots. If time permits, the procurement officer shall provide the offerors involved an opportunity to attend the drawing. The procurement officer shall ensure that the drawing is witnessed by at least one person other than the procurement officer.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-521 renumbered to R4-37-518, new Section R4-37-521 renumbered from R4-37-524 and amended effective May 7, 1990 (Supp. 90-2). R19-3-521 recodified from R4-37-521 (Supp. 95-1). Former Section R19-3-521 renumbered to R19-3-523 and amended; new Section R19-3-521 renumbered from R19-3-519 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-522. Clarification of Proposal Offers**

- A.** The purpose for clarifications is to provide for a greater mutual understanding of the offer. Clarifications are not negotiations and material changes to the request for proposal or offer shall not be made by clarification.
- B.** The procurement officer may request clarifications from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.
- C.** The procurement officer shall retain any clarifications in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-522 renumbered to R4-37-519, new Section R4-37-522 renumbered from R4-37-525 and amended effective May 7, 1990 (Supp. 90-2). R19-3-522 recodified from R4-37-522 (Supp. 95-1). Former Section R19-3-522 renumbered to R19-3-524 and amended; new Section R19-3-522 renumbered from R19-3-520 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-523. Proposal Negotiations with Responsible Offerors and Revisions of Offers**

- A.** The procurement officer shall establish procedures and schedules for conducting negotiations. The procurement officer shall ensure there is no disclosure of one offeror's price or any information derived from competing offers to another offeror.
- B.** Negotiations may be conducted orally or in writing. If oral negotiations are conducted, the offeror shall confirm the negotiations in writing.
- C.** If negotiations are conducted, negotiations shall be conducted with all offerors determined to be in the competitive range or reasonably susceptible for award. Offerors may revise offers based on negotiations provided that any revision is confirmed in writing.
- D.** The procurement officer may conduct negotiations with responsible offerors to improve offers in such areas as cost, price, specifications, performance, or terms, to achieve best value for the Lottery based on the requirements and the evaluation factors set forth in the solicitation.
- E.** Responsible offerors determined to be susceptible for award, with which negotiations have been held, may revise their offer in writing during negotiations.

- F. An offeror may withdraw an offer at any time before the final proposal revision due date and time by submitting a written request to the procurement officer.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-523 renumbered to R4-37-520, new Section R4-37-523 renumbered from R4-37-526 and amended effective May 7, 1990 (Supp. 90-2). R19-3-523 recodified from R4-37-523 (Supp. 95-1). Former Section R19-3-523 renumbered to R19-3-525 and amended; new Section R19-3-523 renumbered from R19-3-521 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-524. Final Proposal Revisions**

- A. The procurement officer shall request written final proposal revisions from any offeror with whom negotiations have been conducted, unless the offeror has been determined not susceptible for award under R19-3-520 or non-responsible under R19-3-526. The procurement officer shall include in the written request:
1. The date, time, and place for submission of final proposal revisions; and
  2. A statement that if offerors do not submit a written notice of withdrawal or a written final proposal revision, their immediate previous written proposal revision will be accepted as their final proposal revision.
- B. The procurement officer shall request written final proposal revisions only once, unless the procurement officer makes a written determination that it is advantageous to the Lottery to conduct further negotiations or change the Lottery's requirements.
- C. If an apparent mistake, relevant to the award determination, is discovered after opening of final proposal revisions, the procurement officer shall contact the offeror for written confirmation. The procurement officer shall designate a time-frame within which the offeror shall either:
1. Confirm that no mistake was made and assert that the offer stands as submitted; or
  2. Acknowledge that a mistake was made, and include the following in a written response:
    - a. Explanation of the mistake and any other relevant information;
    - b. A request for correction including the corrected offer or a request for withdrawal; and
    - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- D. An offeror who discovers a mistake in their final proposal revision may request withdrawal or correction in writing, and shall include the following in the written request:
1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- E. In response to a request made under subsections (C) or (D), the procurement officer shall make a written determination of whether correction or withdrawal will be allowed based on whether the action is consistent with fair competition and in

the best interest of the Lottery. If an offeror does not provide written confirmation of the final proposal revision, the procurement officer shall make a written determination that the most recent written proposal revision submitted is the final proposal revision.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-524 renumbered to R4-37-521, new Section R4-37-524 renumbered from R4-37-527 and amended effective May 7, 1990 (Supp. 90-2). R19-3-524 recodified from R4-37-524 (Supp. 95-1). Former Section R19-3-524 renumbered to R19-3-526 and amended; new Section R19-3-524 renumbered from R19-3-522 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-525. Evaluation of Proposal Offers**

- A. The procurement officer shall evaluate offers and final proposal revisions based on the evaluation criteria contained in the request for proposals. The procurement officer shall not modify evaluation criteria or their relative order of importance after offer due date and time.
- B. The procurement officer may appoint an evaluation committee to assist in the evaluation of offers. If offers are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the procurement officer. The procurement officer may:
1. Accept or reject the findings of the evaluation committee;
  2. Request additional information from the evaluation committee; or
  3. Replace the evaluation committee.
- C. The procurement officer shall prepare an award determination and place the determination, including any evaluation report or other supporting documentation, in the procurement file.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-525 renumbered to R4-37-522, new Section R4-37-525 renumbered from R4-37-522 and amended effective May 7, 1990 (Supp. 90-2). R19-3-525 recodified from R4-37-525 (Supp. 95-1). Former Section R19-3-525 renumbered to R19-3-527 and amended; new Section R19-3-525 renumbered from R19-3-523 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-526. Responsibility Determinations**

- A. The procurement officer shall determine before an award whether an offeror is responsible or nonresponsible.
- B. The procurement officer shall consider the following factors before determining that an offeror is responsible or nonresponsible:
1. The offeror's financial, business, personnel, or other resources, such as subcontractors;
  2. The offeror's record of performance and integrity;
  3. Whether the offeror has been debarred or suspended;
  4. Whether the offeror is legally qualified to contract with the Lottery;

5. Whether the offeror promptly supplied all requested information concerning its responsibility; and
  6. Whether the offeror meets the responsibility criteria specified in the solicitation.
- C.** If the procurement officer determines an offeror is nonresponsible, the procurement officer shall promptly send a determination to the offeror stating the basis for the determination. The procurement officer shall file a copy of the determination in the procurement file.
- D.** The procurement officer shall only disclose responsibility information furnished by an offeror in accordance with A.R.S. § 41-2540.
- E.** For the offeror awarded a contract, the procurement officer's signature on the contract constitutes a determination that the offeror is responsible.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-526 renumbered to R4-37-523, new Section R4-37-526 renumbered from R4-37-529 and amended effective May 7, 1990 (Supp. 90-2). R19-3-526 recodified from R4-37-526 (Supp. 95-1). Former Section R19-3-526 renumbered to R19-3-528 and amended; new Section R19-3-526 renumbered from R19-3-524 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-527. Bid Contract Award

- A.** The procurement officer shall award the contract to the lowest responsible and responsive offeror whose offer conforms in all material respects to the requirements and criteria set forth in the solicitation. Unless otherwise provided in the solicitation, an award may be made for an individual line item, any group of line items, or all line items.
- B.** The procurement officer shall keep a record showing the basis for determining the successful offeror or offerors in the procurement file.
- C.** The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- D.** After an award becomes effective and binding, the procurement officer shall return any bid security provided by the offeror.
- E.** Within 10 days after an award is effective and binding, the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-527 renumbered to R4-37-524, new Section R4-37-527 renumbered from R4-37-530 effective May 7, 1990 (Supp. 90-2). R19-3-527 recodified from R4-37-527 (Supp. 95-1). Former Section R19-3-527 renumbered to R19-3-529 and amended; new Section R19-3-527 renumbered from R19-3-525 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final

rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### R19-3-528. Proposal Contract Award

- A.** The procurement officer shall award the contract to the responsible offeror whose offer is determined to be most advantageous to the Lottery based on the evaluation factors set forth in the solicitation. The procurement officer shall make a written determination explaining the basis for the award and place it in the procurement file.
- B.** Before awarding any cost reimbursement contract, the procurement officer shall determine in writing that:
1. The offeror's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated, and
  2. It is adequate to allocate costs under R19-3-547 through R19-3-550.
- C.** The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- D.** If the procurement officer makes a written determination that it is in the best interest of the Lottery that the award not be made public until reviewed by the Lottery Commission, the Director may authorize a meeting of the Lottery Commission to be held for consideration of the award.
1. The Director shall provide notice of the meeting in compliance with Open Meeting Law, including notice of an executive session to provide information concerning the award and the procurement officer's evaluation of the offers.
  2. The Lottery Commission shall not take action in the executive session.
  3. In open meeting the Lottery Commission may vote to approve or reject the award. The Lottery Commission may also direct that it will reject the award unless further negotiations occur regarding specified issues. If further negotiations are directed, the procurement officer shall withhold the recommended award from public inspection.
- E.** The procurement officer shall notify all offerors of an award that has become effective and binding.
- F.** After a contract award becomes effective and binding, the procurement officer shall return any offer security provided by the offeror.
- G.** Within 10 days after contract award the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.

#### Historical Note

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-528 renumbered to R4-37-525, new Section R4-37-528 renumbered from R4-37-531 and amended effective May 7, 1990 (Supp. 90-2). R19-3-528 recodified from R4-37-528 (Supp. 95-1). Former Section R19-3-528 renumbered to R19-3-530 and amended; new Section R19-3-528 renumbered from R19-3-526 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-529. Mistakes Discovered After Bid Award**

- A.** If a mistake in the offer is discovered after the award, the offeror may request withdrawal or correction in writing and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- B.** Based on the considerations of fair competition and the best interest of the Lottery, the procurement officer may:
1. Allow correction of the mistake, if the resulting dollar amount of the correction is less than the next lowest offer;
  2. Cancel all or part of the award; or
  3. Deny correction or withdrawal.
- C.** After cancellation of all or part of an award, if the offer acceptance period has not expired, the procurement officer may award all or part of the contract to the next lowest responsible and responsive offeror, based on the considerations of fair competition and the best interest of the Lottery.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-529 renumbered to R4-37-526, new Section R4-37-529 renumbered from R4-37-532 and amended effective May 7, 1990 (Supp. 90-2). R19-3-529 recodified from R4-37-529 (Supp. 95-1). Former Section R19-3-529 renumbered to R19-3-531 and amended; new Section R19-3-529 renumbered from R19-3-527 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-530. Mistakes Discovered After Proposal Award**

- A.** If a mistake in the offer is discovered after the award, the offeror may request correction or withdrawal in writing, and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
- B.** Based on the considerations of fair competition and the best interest of the Lottery, the procurement officer may:
1. Allow correction of the mistake;
  2. Cancel all or part of the award; or
  3. Deny correction or withdrawal.
- C.** After cancellation of all or part of an award, if the offer acceptance period has not expired, the procurement officer may award all or part of the contract to the next responsible offeror whose offer is determined to be the next most advantageous to the Lottery according to the evaluation factors contained in the solicitation.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-530 renumbered to R4-37-527, new Section R4-37-530 renumbered from R4-37-533 and amended effective May 7, 1990

(Supp. 90-2). R19-3-530 recodified from R4-37-530 (Supp. 95-1). Former Section R19-3-530 renumbered to R19-3-533 and amended; new Section R19-3-530 renumbered from R19-3-528 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-531. Procurements not Exceeding the Amount Prescribed in A.R.S. § 41-2535**

For purchases not exceeding the amount prescribed in A.R.S. § 41-2535, the procurement officer shall issue a request for quotation under R19-3-533 unless any of the following apply:

1. The purchase can be made from a state or agency contract;
2. The purchase can be made from a set-aside organization as established in A.R.S. § 41-2636;
3. The purchase is not expected to exceed \$5,000.00;
4. The purchase is made as a sole-source procurement;
5. The procurement officer makes a written determination that competition is not practicable under the circumstances. The purchase shall be made with as much competition as is practicable under the circumstances.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-531 renumbered to R4-37-528, new Section R4-37-531 renumbered from R4-37-534 and amended effective May 7, 1990 (Supp. 90-2). R19-3-531 recodified from R4-37-531 (Supp. 95-1). Former Section R19-3-531 renumbered to R19-3-535 and amended; new Section R19-3-531 renumbered from R19-3-529 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-532. Solicitation – Request for Quotation**

- A.** A request for quotation shall be issued for purchases estimated to exceed \$5,000 but less than that specified in A.R.S. § 41-2535. The procurement officer shall include the following in the solicitation:
1. Offer submission requirements, including offer due date and time, where offers will be received, and offer acceptance period;
  2. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
  3. The minimum information that the offer shall contain;
  4. Any evaluation factors;
  5. Whether negotiations may be held;
  6. Any contract options including renewal or extension;
  7. The uniform terms and conditions by text or reference; and
  8. Any other terms, conditions, or instructions specific to the procurement.
- B.** The request for quotation shall include a statement that only a small business, as defined in R19-3-501, shall be awarded a contract, unless any of the following apply:
1. The purchase has been unsuccessfully competed under R19-3-533, including failure to obtain fair and reasonable prices; or
  2. The procurement officer has made a written determination that restricting the procurement to small business is not practical under the circumstances.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-532 renumbered to R4-37-529, new Section R4-37-532 renumbered from R4-37-535 and amended effective May 7, 1990 (Supp. 90-2). R19-3-532 recodified from R4-37-532 (Supp. 95-1). Former Section R19-3-532 renumbered to R19-3-536 and amended; new Section adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-533. Request for Quotation Issuance**

The procurement officer shall issue the request for quotation by one of these methods:

1. Post the request for quotation on the state procurement office's centralized electronic system indicating the date that offers are due. The request for quotation shall be posted for a reasonable time as determined by the procurement officer based on the needs of the Lottery.
2. Distribute the request for quotation to a minimum of three small businesses. The procurement officer shall rotate suppliers invited to submit quotations and shall invite at least one small minority- or small women-owned business enterprise to submit a quote. If the procurement officer is unable to locate a small minority- or small women-owned business enterprise, the procurement officer shall document in the procurement file.
3. The procurement officer may cancel the request for quotation at any time by making a written determination that cancellation is advantageous to the Lottery.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-533 renumbered to R4-37-530, new Section R4-37-533 renumbered from R4-37-536 and amended effective May 7, 1990 (Supp. 90-2). R19-3-533 recodified from R4-37-533 (Supp. 95-1). Former Section R19-3-533 renumbered to R19-3-537 and amended; new Section R19-3-533 renumbered from R19-3-530 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-534. Quotation Contract Award**

- A. If only one responsive offer is received, the procurement officer shall explain in writing whether award of the contract is advantageous to the Lottery and place the determination in the procurement file.
- B. The procurement officer shall award a contract to the small business determined to be most advantageous to the Lottery in accordance with any evaluation factors identified in the request for quotation.
- C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
- D. The procurement officer shall make the procurement file available to the public on the date the contract award becomes final and binding.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-534 renumbered to R4-37-531, new Section R4-37-534 renumbered from R4-37-538 and amended effective May 7, 1990 (Supp. 90-2). R19-3-534 recodified from R4-37-534 (Supp. 95-1). Former Section R19-3-534 renumbered to R19-3-538 and amended; new Section R19-3-534 adopted December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-535. Sole Source Procurements**

- A. For the purposes of this Section, the term "sole-source procurement" means a material or service procured without competition when:
  1. There is only a single source for the material or service; or
  2. No reasonable alternative source exists.
- B. The procurement officer shall make a written determination that includes the following information:
  1. A description of the procurement need and the reason why there is only a single source available or no reasonable alternative exists;
  2. The name of the proposed supplier;
  3. The duration and estimated total dollar value of the proposed procurement;
  4. Documentation that the price submitted is fair and reasonable pursuant to R19-3-547; and
  5. A description of efforts made to seek other sources.
- C. The procurement officer shall post the request on the Lottery web site and the state procurement office web site and invite comments on the sole-source request for five working days. Following this period, the procurement officer shall either:
  1. Issue a written determination with any conditions or restrictions;
  2. Retract the determination if input or information received shows that more than one source is available or a reasonable alternative source exists for the procurement need.
- D. If the sole-source procurement is determined, the procurement officer shall negotiate a contract advantageous to the Lottery.
- E. The procurement officer shall notify the Director and the Lottery Commission of a contract award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to the sole source.
- F. The procurement officer shall keep a record of all sole-source procurements.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-535 renumbered to R4-37-532, new Section R4-37-535 renumbered from R4-37-539 and amended effective May 7, 1990 (Supp. 90-2). R19-3-535 recodified from R4-37-535 (Supp. 95-1). Former Section R19-3-535 renumbered to Section R19-3-339 and amended; new Section R19-3-535 renumbered from R19-3-531 and amended, effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-536. Emergency Procurements**

- A.** For the purposes of this Section, the term “emergency” means any condition creating an immediate and serious need for materials, services, or construction in which the Lottery’s best interests are not met through the use of other source-selection methods. The condition must seriously threaten the functioning of the Lottery, the preservation or protection of property, or the health or safety of a person.
- B.** This Section applies to only emergency procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535. The procurement officer may procure a material or service without competition when there is an emergency by complying with this Section.
- C.** A Lottery employee with the approval of the immediate supervisor or the Director may proceed with an emergency procurement without approval from the procurement officer if the emergency necessitates immediate response and it is impracticable to contact the procurement officer. The supervisor or Director shall submit a written confirmation of the emergency procurement to the procurement officer within five working days of the emergency.
- D.** An emergency procurement shall be limited to such actions necessary to address the emergency.
- E.** An emergency procurement shall employ maximum competition, given the circumstances, to protect the interests of the Lottery.
- F.** The procurement officer shall keep a record of all emergency procurements.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-536 renumbered to R4-37-533, new Section R4-37-536 renumbered from R4-37-540 and amended effective May 7, 1990 (Supp. 90-2). R19-3-536 recodified from R4-37-536 (Supp. 95-1). Former Section R19-3-536 renumbered to Section R19-3-541 and amended; new Section R19-3-536 renumbered from R19-3-532 and amended, effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-537. Competition Impracticable Procurements**

- A.** For the purposes of this Section, “competition impracticable” means a procurement requirement exists which makes compliance with A.R.S. § 5-559 and these rules impracticable, unnecessary, or contrary to the public interest, but which is not an emergency under R19-3-536.
- B.** The procurement officer shall make a written determination for approval containing the following:
  - 1. An explanation of the competition impracticable need and the unusual or unique situation that makes compliance with A.R.S. § 5-559 and these rules impracticable, unnecessary, or contrary to the public interest;
  - 2. A definition of the proposed procurement process to be utilized and an explanation of how this process will foster as much competition as is practicable;
  - 3. An explanation of why the proposed procurement process is advantageous to the Lottery; and
  - 4. The scope, duration, and estimated total dollar value of the procurement need.
- C.** The procurement officer shall keep a record of all competition impracticable procurements.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-537 repealed, new Section R4-37-537 renumbered from R4-37-541 and amended effective May 7, 1990 (Supp. 90-2). R19-3-537 recodified from R4-37-537 (Supp. 95-1). Former Section R19-3-537 renumbered to R19-3-542 and amended; new Section R19-3-537 renumbered from R19-3-533 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

ant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-537 repealed, new Section R4-37-537 renumbered from R4-37-541 and amended effective May 7, 1990 (Supp. 90-2). R19-3-537 recodified from R4-37-537 (Supp. 95-1). Former Section R19-3-537 renumbered to R19-3-542 and amended; new Section R19-3-537 renumbered from R19-3-533 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citations in subsections (A) and (B)(1) were updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

**R19-3-538. Request for Information**

The procurement officer may issue a request for information to obtain price, delivery, technical information or capabilities for planning purposes.

- 1. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
- 2. To the extent allowed by law, information contained in a response to a request for information may be considered confidential until the procurement process is concluded or two years, whichever occurs first.
- 3. There is no required format to be used for requests for information.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-538 renumbered to R4-37-534, new Section R4-37-538 renumbered from R4-37-542 and amended effective May 7, 1990 (Supp. 90-2). R19-3-538 recodified from R4-37-538 (Supp. 95-1). Former Section R19-3-538 renumbered to R19-3-543 and amended; new Section R19-3-538 renumbered from R19-3-534 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-539. Demonstration Projects**

- A.** The procurement officer may award a contract for a demonstration project. The written determination shall contain the following:
  - 1. Name of the contractor;
  - 2. Description of the project, including unique and innovative features of the project;
  - 3. Statement and explanation that the project is in best interest of the Lottery;
  - 4. Duration of the project; and
  - 5. Proposed contract terms and conditions.
- B.** Demonstration projects shall be provided by the contractor at no cost and the Lottery shall not be obligated to purchase or lease the services or materials from the contractor.
- C.** The procurement officer may purchase or lease from the demonstration contractor within 12 months after the demonstration project begins or within 12 months after the demonstration project ends by making a written determination that contains the following:
  - 1. Name of the contractor;
  - 2. Description of the project, including unique and innovative features of the project;

3. Statement and explanation that lease or purchase is in best interest of the Lottery;
  4. Cost to the Lottery;
  5. Duration of the proposed contract; and
  6. Proposed contract terms and conditions.
- D. The term of the contract resulting from a demonstration project shall not exceed two years.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-539 renumbered to R4-37-535, new Section R4-37-539 renumbered from R4-37-543 effective May 7, 1990 (Supp. 90-2). R19-3-539 recodified from R4-37-539 (Supp. 95-1). Former Section R19-3-539 renumbered to R19-3-547 and amended; new Section R19-3-539 renumbered from R19-3-535 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-540. General Services Administration Contracts**

- A. The procurement officer may purchase products or services using General Services Administration (GSA) schedules or contracts under the following conditions:
1. Use of the GSA contract or schedule is cost effective and in the best interest of the Lottery;
  2. Price is equal to or less than the contractor's current GSA price;
  3. Price is fair and reasonable;
  4. Contractor is willing to offer GSA pricing and terms to the Lottery;
  5. Comparable products or services are not available under a state or agency contract;
  6. Comparable products or services are not restricted under a set-aside contract; and
  7. Contractor accepts required Lottery contract terms and conditions.
- B. The procurement officer shall make a written determination that use of the GSA contract or schedule is in the best interest of the Lottery. The determination shall contain the following:
1. Name of the contractor;
  2. GSA contract or schedule number;
  3. Procurement description;
  4. Analysis of price, quality, and other relevant factors; and
  5. Statement that the price is fair and reasonable.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-540 renumbered to R4-37-536, new Section R4-37-540 renumbered from R4-37-544 and amended effective May 7, 1990 (Supp. 90-2). R19-3-540 recodified from R4-37-540 (Supp. 95-1). Former Section R19-3-540 renumbered to R19-3-549 and amended; new Section R19-3-540 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-541. Contract Clauses**

The procurement officer shall include in solicitations and contracts all contract clauses necessary to ensure the Lottery's interests are addressed.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-541 renumbered to R4-37-538, new Section R4-37-541 renumbered from R4-37-545 and amended effective May 7, 1990 (Supp. 90-2). R19-3-541 recodified from R4-37-541 (Supp. 95-1). Former Section R19-3-541 renumbered to R19-3-551 and amended; new Section R19-3-541 renumbered from R19-3-536 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-542. Assignment of Rights and Duties**

A contractor shall not assign or transfer the rights or duties of a Lottery contract without the written consent of the Director.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-542 renumbered to R4-37-539, new Section R4-37-542 renumbered from R4-37-546 and amended effective May 7, 1990 (Supp. 90-2). R19-3-542 recodified from R4-37-542 (Supp. 95-1). Former Section R19-3-542 repealed; new Section R19-3-542 renumbered from R19-3-537 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-543. Change of Name**

If a contractor requests to change the name in which it holds a Lottery contract, the procurement officer may, upon receipt of a document indicating name change and any other information requested by the procurement officer in the best interest of the Lottery concerning the name change, enter into a written amendment with the contractor to effect the name change. The amendment shall provide that no other terms and conditions of the contract are changed.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-543 renumbered to R4-37-540, new Section R4-37-543 renumbered from R4-37-547 and amended effective May 7, 1990 (Supp. 90-2). R19-3-543 recodified from R4-37-543 (Supp. 95-1). Former Section R19-3-543 repealed; new Section R19-3-543 renumbered from R19-3-538 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-544. Contract Change Orders and Amendments**

- A. The procurement officer may extend or authorize options in a contract provided the price of the extension or option was evaluated under the contractor's original offer.
- B. Any contract change order or amendment not covered under subsection (A) that exceeds \$100,000 may be executed only if the procurement officer determines in writing that the change order or amendment is advantageous to the Lottery and the price is determined fair and reasonable pursuant to R19-3-547.
- C. The procurement officer may, in situations in which time or economic considerations preclude re-solicitation, negotiate a reduction to the contract, including scope, price, and contract requirements in accordance with A.R.S. § 41-2537.



**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R4-37-544 renumbered to R4-37-541, new Section R4-37-544 renumbered from R4-37-548 and amended effective May 7, 1990 (Supp. 90-2). R19-3-544 recodified from R4-37-544 (Supp. 95-1). Former Section R19-3-544 repealed; new Section R19-3-544 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-545. Multi-term Contracts**

- A. Unless otherwise provided by law, a contract may be entered into for a period of time up to five years, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting.
- B. A contract may be entered into for a period exceeding five years if the procurement officer makes a written determination that such a contract would be advantageous to the Lottery. The written determination shall include:
  - 1. The initial and renewal option periods for the contract;
  - 2. Documentation that the estimated requirements are reasonable and continuing;
  - 3. Documentation that such a contract will serve the best interests of the Lottery by encouraging effective competition or otherwise promoting economies in Lottery procurement.
- C. The procurement officer shall include in all multi-term contracts a clause specifying that the contract shall be cancelled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year. If the contract is cancelled under this Section, the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable.

**Historical Note**

Adopted as an emergency effective June 5, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Adopted as a permanent rule effective August 29, 1985 (Supp. 85-4). Former Section R19-3-545 renumbered to R19-3-541, new Section R4-37-545 renumbered from R4-37-549 and amended effective May 7, 1990 (Supp. 90-2). R19-3-545 recodified from R4-37-545 (Supp. 95-1). Former Section R19-3-545 renumbered to R19-3-552 and amended; new Section R19-3-545 adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-546. Terms and Conditions**

- A. The procurement officer shall use the uniform terms and conditions published by the state procurement administrator for state contracts.
- B. The procurement officer may make changes to uniform terms and conditions by making a written determination that it is in the best interest of the Lottery and does not conflict with any statutory requirements.

**Historical Note**

Renumbered to Section R4-37-542 effective May 7, 1990 (Supp. 90-2). R19-3-546 recodified from R4-37-546 (Supp. 95-1). New Section adopted effective December

16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-547. Determination of Fair and Reasonable Price**

- A. For contracts or contract modifications that exceed \$100,000, the procurement officer shall determine in writing that the price is fair and reasonable only when one of the following requirements is met:
  - 1. The contract or modification is based on adequate price competition;
  - 2. Price is supported by an established catalog or market prices;
  - 3. Price is set by law or rule; or
  - 4. Price is supported by relevant, historical price data.
- B. The procurement officer shall request the submission of cost or pricing data from the offeror or contractor when:
  - 1. The procurement officer cannot determine the price is fair and reasonable based on the criteria in subsection (A); or
  - 2. The procurement officer determines in writing that it is in the best interest of the Lottery regardless of the amount of the contract or contract modification.

**Historical Note**

Renumbered to Section R4-37-543 effective May 7, 1990 (Supp. 90-2). R19-3-547 recodified from R4-37-547 (Supp. 95-1). New Section R19-3-547 renumbered from R19-3-339 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-548. Submission and Certification of Cost or Pricing Data**

- A. The offeror or contractor shall submit certified cost or pricing data in the manner, and within the time-frames, prescribed by the procurement officer.
- B. The offeror or contractor shall keep all cost or pricing data submitted current until the negotiations are concluded.
- C. The offeror or contractor shall certify cost or pricing data by including a signed statement with the submission that all data is accurate, complete, and current to the best of the offeror's or contractor's knowledge and belief as of a date mutually determined with the procurement officer.

**Historical Note**

Renumbered to Section R4-37-544 effective May 7, 1990 (Supp. 90-2). R19-3-548 recodified from R4-37-548 (Supp. 95-1). New Section adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-549. Refusal to Submit Cost or Pricing Data**

- A. If an offeror fails to submit cost or pricing data in the required form and within the time-frames required, the procurement officer may reject the offer.
- B. If a contractor fails to submit data to support a contract modification in the form required and within the time-frames required, the procurement officer may:
  - 1. Reject the contract modification; or
  - 2. Set the amount of the contract modification subject to the contractor's rights under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Renumbered to Section R4-37-545 effective May 7, 1990 (Supp. 90-2). R19-3-549 recodified from R4-37-549 (Supp. 95-1). R19-3-549 renumbered from R19-3-540

and amended effective December 16, 1997 (Supp. 97-4).  
Section repealed; new Section made by final rulemaking  
at 12 A.A.R. 4495, effective January 6, 2007  
(Supp. 06-4).

#### **R19-3-550. Defective Cost or Pricing Data**

- A.** The procurement officer may reduce the contract price if, upon written determination, the cost or pricing data is defective.
- B.** The procurement officer shall reduce the contract price in the amount of the defect plus related overhead and profit or fee, if the defective data was used in awarding the contract or contract modification.
- C.** The offeror or contractor may appeal any dispute regarding the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data as a contract claim under R19-3-551 through R19-3-559. The price, as adjusted by the procurement officer, shall remain in effect until any claim is settled or resolved under A.R.S. Title 41, Chapter 6, Article 10.

#### **Historical Note**

Adopted effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-551. Protest of Solicitations and Contract Awards**

- A.** Any interested party may protest a solicitation, a determination of not susceptible for award, or the award of a contract.
- B.** The interested party shall file the protest in writing with the procurement officer and shall include the following information:
  - 1. The name, address, and telephone number of the interested party;
  - 2. The signature of the interested party or the interested party's representative;
  - 3. Identification of the solicitation or contract number;
  - 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
  - 5. The form of relief requested.
- C.** If the protest is based upon alleged improprieties in a solicitation that are apparent before the offer due date and time, the interested party shall file the protest before the offer due date and time.
- D.** In cases other than those covered in subsection (C), the interested party shall file the protest within 10 days after the procurement officer makes the procurement file available for public inspection.
- E.** The interested party may submit a written request to the procurement officer for an extension of the time limit for protest filing set forth in subsection (D). The written request shall be submitted before the expiration of the time limit set forth in subsection (D) and shall set forth good cause as to the specific action or inaction of the Lottery that resulted in the interested party being unable to submit the protest within the 10 days. The procurement officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted set forth a new date for submission of the filing.
- F.** If the interested party shows good cause, the procurement officer may consider a protest that is not timely filed.
- G.** The procurement officer shall immediately give notice of a protest to all offerors.

#### **Historical Note**

Section R19-3-551 renumbered from R19-3-541 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at

12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-552. Stay of Procurements During the Protest**

- A.** If a protest is filed before the solicitation due date, before the award of a contract, or before performance of a contract has begun, the procurement officer shall make a written determination to either:
  - 1. Proceed with the award or contract performance; or
  - 2. Stay all or part of the procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Lottery.
- B.** The procurement officer shall provide the interested party and other interested parties with a copy of the written determination.

#### **Historical Note**

Section R19-3-552 renumbered from R19-3-545 and amended effective December 16, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-553. Resolution of Solicitation and Contract Award Protests**

- A.** The procurement officer has the authority to resolve a protest.
- B.** The procurement officer shall issue a written decision within 14 days after a protest has been filed under R19-3-551. The decision of the procurement officer shall contain the factual and legal basis for the decision and a statement that the decision of the Lottery may be appealed as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10 within 30 days from receipt of the decision.
- C.** The procurement officer shall furnish the decision to the interested party, by certified mail, return receipt requested, or by any other method that provides evidence of receipt and provide a copy to the Director.
- D.** The time limit for decisions under subsection (B) may be extended for good cause by a written determination. The extension shall not exceed an additional 30 days. The procurement officer shall notify the interested party in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- E.** If the procurement officer fails to issue a decision within the time limits set forth in this Article, the interested party may proceed as if the procurement officer had issued an adverse decision.

#### **Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

#### **R19-3-554. Remedies by the Procurement Officer**

- A.** If the procurement officer sustains a protest in whole or part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with the procurement statutes and regulations, the procurement officer shall implement an appropriate remedy.
- B.** In determining an appropriate remedy, the procurement officer shall consider all the circumstances surrounding the procurement or proposed procurement including:
  - 1. The seriousness of the procurement deficiency;
  - 2. The degree of prejudice to other interested parties or to the integrity of the procurement system;
  - 3. The good faith of the parties;
  - 4. The extent of performance;
  - 5. The costs to the Lottery;
  - 6. The urgency of the procurement;
  - 7. The impact on the agency's mission; and
  - 8. Other relevant issues.

- C. The procurement officer may implement any of the following appropriate remedies:
1. Decline to exercise an option to renew under the contract;
  2. Terminate the contract;
  3. Amend the solicitation;
  4. Issue a new solicitation;
  5. Award a contract consistent with procurement statutes and regulations; or
  6. Render such other relief as determined necessary to ensure compliance with procurement statutes and regulations.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-555. Agency Report**

- A. The procurement officer shall file a complete report on any appeal under A.R.S. Title 41, Chapter 6, Article 10 within 14 days after the date the appeal is filed, at the same time furnishing a copy of the report to the interested party. The procurement officer shall also provide a copy of the report to any interested parties who request a copy, at their cost. The report shall contain copies of:
1. The appeal;
  2. The offer submitted by the interested party;
  3. The offer of the firm that is being considered for award;
  4. The solicitation, including the specifications or portions relevant to the appeal;
  5. The abstract of offers or relevant portions;
  6. Any other documents that are relevant to the protest; and
  7. A statement by the procurement officer setting forth findings, actions, recommendations and any additional evidence or information necessary to determine the validity of the appeal.
- B. The time limit for filing the agency report under subsection (A) may be extended for good cause by a written determination. The extension shall not exceed an additional 30 days. The procurement officer shall notify the interested party in writing that the time for the issuance of the agency report has been extended and the date by which a decision shall be issued.
- C. The interested party shall file comments on the agency report with the procurement officer within 10 days after receipt of the report. The interested party shall provide copies of the comments to the other interested parties.
- D. The interested party may submit a written request to the Director for an extension of the period for submission of comments, identifying the reasons for the extension. The procurement officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-556. Controversies Involving Contract Claims Against the Lottery**

- A. A claimant shall file a contract claim with the procurement officer within 180 days after the claim arises. The claim shall include the following:
1. The name, address, and telephone number of the claimant;
  2. The signature of the claimant or claimant's representative;
  3. Identification of the solicitation or contract number;
  4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and

5. The form and dollar amount of the relief requested.

- B. The procurement officer shall have the authority to settle and resolve contract claims.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-557. Procurement Officer's Decision**

- A. If a claim cannot be resolved under R19-3-556, the procurement officer shall, upon a written request by the claimant for a final decision, issue a written decision no more than 60 days after the request is filed. Before issuing a final decision, the procurement officer shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.
- B. The procurement officer shall furnish the decision to the claimant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt, with a copy to the Director. The decision shall include:
1. A description of the claim;
  2. A reference to the pertinent contract provision;
  3. A statement of the factual areas of agreement or disagreement;
  4. A statement of the procurement officer's decision, with supporting rationale;
  5. A paragraph which substantially states: "This is the final decision of the procurement officer. This decision may be appealed as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10 within 30 days from receipt of the decision. If you appeal, you must file a written notice of appeal containing the information required in R19-3-559(B) with the procurement officer within 30 days from the date you receive this decision."

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-558. Issuance of a Timely Decision**

If the procurement officer fails to issue a decision within 60 days after the request is filed, the claimant may proceed as if the procurement officer had issued an adverse decision.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-559. Appeals and Reports to the Director**

- A. The claimant may appeal the final decision of the procurement officer to the Director within 30 days from the date the decision is received. The claimant shall file a copy of the appeal with the Director and the procurement officer.
- B. The claimant shall file the appeal in writing and shall include the following:
1. A copy of the decision of the procurement officer;
  2. A statement of the factual areas of agreement or disagreement; and
  3. The precise factual or legal error in the decision of the procurement officer from which an appeal is taken.
- C. The procurement officer shall file a complete report on the appeal with the Director within 14 days from the date the appeal is filed, providing a copy to the claimant at that time by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The report shall include a copy of the claim, a copy of the procurement officer's decision, if applicable, and any other documents that are relevant to the claim.

- D. The Director shall resolve appeals on claim decisions under A.R.S. § 41-1092.07.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-560. Controversies Involving Lottery Claims Against the Contractor**

If the procurement officer is unable to resolve, by mutual agreement, a claim asserted by the Lottery against a contractor, the procurement officer shall seek resolution under A.R.S. § 41-1092.07. The procurement officer shall furnish a copy of the claim to the Director.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-561. Online Solicitation Process**

The procurement officer may make a written determination that an online bidding as defined in A.R.S. § 41-2671 is most advantageous to the Lottery. The written determination shall include the following information:

1. An estimate of the number of prospective offerors;
2. A description of the proposed online procurement method to be utilized and an explanation of how this method will foster competition;
3. An explanation of why the proposed procurement method is advantageous to the Lottery; and
4. The scope, duration, and estimated total dollar value of the procurement need.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**R19-3-562. Guidance**

If a procedure is not provided by these rules, the procurement officer may issue a written determination using for guidance A.R.S. § 41-2501 through § 41-2591 or A.A.C. R2-7-101 through R2-7-1301.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4495, effective January 6, 2007 (Supp. 06-4).

**ARTICLE 6. ANNUITY ASSIGNMENTS**

**R19-3-601. Voluntary Assignment of Prizes Paid in Installments**

- A. A prize winner may request a voluntary assignment of an annuity or a portion of the remaining installments of the annuity by filing an action in a court of competent jurisdiction requesting judicial approval of the assignment. The prize winner and the purchaser of the annuity shall name the state of Arizona as a defendant in the action and shall bear all costs associated with filing the request for judicial approval of the assignment.
- B. A prize winner shall include in the request for judicial approval under subsection (A) the following:
1. The affidavit required under A.R.S. § 5-563(A)(3);
  2. A copy of the signed assignment agreement between the prize winner and the assignee; and
  3. Proof that the fee under subsection (D) has been paid to the Lottery.
- C. After the court approves the assignment, the prize winner shall send the written judicial approval to the Lottery. Upon receipt of judicial approval of the voluntary assignment, the Director

shall direct the insurance company to make future annuity payments as provided in the Court order.

- D. The prize winner or assignee shall pay a fee of \$235.00 to the Lottery to process the voluntary assignment.

**Historical Note**

Adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-5). Adopted without change as a permanent rule effective February 25, 1987 (Supp. 87-1). Amended effective May 7, 1993 (Supp. 93-2). R19-3-601 recodified from R4-37-601 (Supp. 95-1). Repealed effective June 14, 1997 (Supp. 97-2). New Section made by final rulemaking at 11 A.A.R. 2028, effective July 2, 2005 (Supp. 05-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (B)(1) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
6. "Pack" means a group of tickets bearing a common identification number.
7. "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
8. "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
9. "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
10. "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
11. "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
12. "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
13. "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.

14. "Validation code" means the unique multi-positional code on each ticket that is used to authenticate winning tickets.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-702. Game Profile**

- A. Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name;
  2. Game number;
  3. Prize structure;
  4. Game Playstyle;
  5. Play symbols;
  6. Retailer validation codes, if any;
  7. Special features, if any;
  8. Retail sales price;
  9. How to play and win instructions; and
  10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the individual Game Profile prior to the game being sold to the public.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-703. Game Playstyle**

- A. The playstyle for an individual game shall be fully described in the Game Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
1. Match Two,
  2. Match Three,
  3. Add-up,
  4. Tic-Tac-Toe,
  5. Key Symbol or Symbols Match,
  6. Key Symbol or Symbols Beat,
  7. Symbols in Sequence,
  8. Spell Outs,
  9. In Between,
  10. Bingo,
  11. Pattern,
  12. Legend,
  13. Coordinates,
  14. Find,
  15. Maze,
  16. Grid,
  17. Elimination,
  18. Sets.
- B. More than one game and more than one playstyle may appear on a ticket.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

**R19-3-704. Determination of a Winning Ticket**

- A. The play symbols are the only determining factor for prize eligibility for a valid ticket.
- B. For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the

play and prize symbols. Eligibility to win a prize is based on compliance with the designated playstyle as follows:

1. Match Two. The player shall win the prize or prizes indicated by uncovering two identical play symbols on a play area.
2. Match Three. The player shall win the prize or prizes indicated by uncovering three identical play symbols on a play area.
3. Add-Up. The player shall win the prize or prizes indicated in either of the following ways:
  - a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbol on the ticket, or
  - b. The player adds up the play symbols designated for the player and the total is greater than or equal to the control key symbol or symbols.
4. Tic-Tac-Toe. The player shall win the prize or prizes indicated by uncovering three identical play symbols, in any row, or any column, or any diagonal, on a multi-symbol grid on the play area.
5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols identical to the designated key play symbol or symbols.
6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player in the ticket play area which is greater than the control play symbol or symbols.
7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
8. Spell Outs. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player with a value less than the highest control play symbol or symbols and greater than the play lowest control play symbol or symbols.
10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the designated play area or areas that are identical to the play symbols uncovered on the control play area to form the specified pattern or patterns.
11. Pattern. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols on a multi-symbol play area that follow a designated pattern.
12. Legend. The player shall win the prize or prizes indicated by uncovering the designated number or type of play symbols that correspond to a legend.
13. Coordinates. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols that direct the player to a location on the play area to reveal the specified play symbol, or the number or pattern of play symbols.
14. Find. The player shall win the prize or prizes indicated by uncovering the designated play or prize symbol.
15. Maze. The player shall win the prize or prizes indicated by uncovering the directional symbols to make a path or paths leading to a designated prize symbol.
16. Grid. The player shall win the prize or prizes indicated by uncovering a specified number or pattern of play symbols on a grid on the play area.
17. Elimination. The player shall win the prize indicated by uncovering the corresponding prize or symbol on a prize

table to eliminate all but one remaining prize amount or symbol.

18. Sets. The player shall win the prize or prizes indicated by uncovering the designated group or groups of play symbols, without repetition or deletion of any play symbol, within a specified location of the play area.

- C. Each of the playstyles described in subsection (B) may include one or more special features such as “automatic win,” “multiplier,” “wild,” “win all,” “extra chance,” or “free space” that provides an added or alternative method of winning.

#### Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

#### R19-3-705. Ticket Validation and Confirmation Requirements

- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder shall present a ticket meeting all of the following requirements:
  1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;
  2. The ticket shall not be counterfeit or forged, in whole or in part;
  3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
  4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
  5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;
  6. The ticket shall have been issued by the Lottery in an authorized manner;
  7. The ticket shall have been legally obtained;
  8. The ticket shall pass all other confidential validation tests determined by the Director;
  9. The ticket shall be validated in accordance with the provisions of R19-3-706 and R19-3-708;
  10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
  11. All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and
  12. The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game.
- C. In addition to the requirements in subsection (B), each instant scratch game ticket shall meet the following:
  1. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, and where applicable, a PIN number, and at least one ticket validation code; and
  2. The validation code of a winning ticket shall appear in the Lottery’s official file of validation codes of winning tickets and shall not have been previously paid.
- D. In addition to the requirements in subsection (B), each instant tab game ticket shall meet the following:
  1. The ticket shall contain a game number and a serial number, and
  2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.
- E. If the ticket fails to pass any of the requirements in subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games, the ticket is void and ineligible for any prize payout.

#### Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

#### R19-3-706. Ticket Ownership and Responsibility; Prize Payment

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The owner of a winning instant ticket is the person whose signature appears upon the ticket, if an area has been designated for that purpose.
  1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant’s portion of the prize.
  4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner’s name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.
  1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the setoff exists. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.
  5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.
  6. The setoff amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
  7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.

1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in R19-3-708.
  2. Each winning game play wins the prize amount specified in the Game Profile.
- E. The Lottery is not responsible for lost or stolen tickets.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

**R19-3-707. Claim Period**

- A. For the claimant to receive payment, a winning instant scratch game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.
1. If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant scratch game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
  2. In the case of a drawing prize associated with an instant scratch game, the claimant shall claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.
- B. The end of an instant game shall be designated by the Director and on file at the Lottery.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-708. Procedure for Claiming Prizes**

- A. To claim an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay all winning prizes up to and including \$100 and may pay all winning prizes from \$101 up to and including \$599 provided that:
1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and
  2. A proper validation slip, which is an authorization to pay, has been generated by the terminal.
- B. To claim an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.
  2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.

- C. If an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer. The selling retailer shall pay all winning prizes provided that:
1. All of the ticket validation criteria in R19-3-705(A) and (B)(1) through (8) have been satisfied; and
  2. The retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.
- E. Payment of prize money shall not be accelerated ahead of its normal date of payment.
- F. The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.
- G. The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**R19-3-709. Disputes Concerning a Ticket**

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.
- B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.
- C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.

**Historical Note**

Adopted effective October 25, 1996 (Supp. 96-4).  
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

**ARTICLE 8. RESERVED****ARTICLE 9. RESERVED****ARTICLE 10. PROMOTIONS****R19-3-1001. Definitions**

In this Article, unless the context otherwise requires:

1. "Category" means player, consumer, retailer, vendor, or other person who participates in the promotion.
2. "Charitable organization" means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
3. "Media" means the method of communication, as in television, radio, print, outdoor, or Internet, with wide reach and influence.
4. "Prize type" means cash, free ticket or tickets, coupon or coupons, merchandise, retailer or vendor product or service, or discount on retailer or vendor product or service.

5. "Promotion" means a program designed to increase awareness of the Lottery, Lottery beneficiaries, and Lottery games that is intended to increase the sale of Lottery tickets to produce the maximum amount of net revenue for the state.
6. "Promotion playstyle" means the type of process or procedure used to control the promotion.
7. "Promotion Profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by these rules for a promotion.
8. "Promotional merchandise" means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
9. "Promotional ticket" means a Lottery ticket from a current, active game or a specially designed game provided by the Lottery for use in a promotion.
10. "Targeted game or targeted games" means the specific game or games a promotion is intended to increase sales or awareness of.
11. "Tickets" means one or more Lottery game plays from the targeted game or games.
3. Retailer's Second Chance Drawing – Retailer/Player.
4. Increased Prize Payment.
5. Buy X and Get Y Free – Player.
6. Sell X and Get Y Free – Retailer.
7. Validate X and Get Y Free – Retailer.
8. Buy X and Get Y Free, Every Nth Transaction – Player.
9. Sell X and Get Y Free, Every Nth Transaction – Retailer.
10. Complete Survey.
11. Special Events – Player.
12. Retailer Incentive.
13. Cross Promotion.
14. Media Promotion.
15. Customer Service.
16. Mystery Shopper – Retailer.
17. Ask For the Sale – Retailer.
18. Charitable Organization.
19. Public Contest – not related to specific Lottery game.
20. Multi-State Lottery (MUSL) Promotions.
- B. More than one promotion may run concurrently.
- C. Promotion may be held only on specific days of the week.
- D. Promotion may be held only during specific hours of the day.
- E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1002. Promotion Profile

- A. Each promotion shall have a Promotion Profile and at a minimum, the Profile shall contain the following information:
  1. Promotion name;
  2. Promotion playstyle;
  3. Category;
  4. Targeted game, games or Lottery beneficiaries involved in the promotion;
  5. Promotion description;
  6. Promotion selection criteria, if applicable;
  7. Prize type and structure, including the estimated number and size of monetary prizes, free tickets, coupons, certificates, discounts, and merchandise prizes available, if applicable;
  8. Retail sales price, if applicable;
  9. Promotion date range (beginning and ending promotion dates);
  10. Time range, if applicable;
  11. Day or days of the week, if applicable;
  12. Special feature, if any; and
  13. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the Promotion Profile prior to the promotion being introduced to the public for participation.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1003. Promotion Playstyle - Promotion Type

- A. The playstyle for a specific promotion shall be fully described in the Promotion Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
  1. Second Chance Drawing – Player.
  2. Second Chance Drawing – Retailer.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1004. Determination of a Winning Promotion

Eligibility to win a prize is based on compliance with the designated promotion playstyle as follows:

1. Second Chance Drawing – Player. The player shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
2. Second Chance Drawing – Retailer. The retailer shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile, or the Lottery may use information collected on its database as defined in the Promotion Profile to qualify the retailer. The retailer or retailers selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
3. Retailer's Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask players to deposit the required coupon, tickets or entry form into a Drawing Container at the retailer's location. The retailer shall perform random drawings according to the Promotion Profile. The players selected in the drawings shall win the prize type designated in the Promotion Profile. The Lottery shall provide the participating retailer with a predetermined number of prizes for the promotion.
4. Increased Prize Payout. Players who win a particular prize denomination in the target game or games shall win an additional amount specified in the Promotion Profile. The Promotion Profile shall define any required level of participation to be eligible.
5. Buy X and Get Y Free – Player. Each time a player buys a predetermined number of tickets from the targeted game or games, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement



- and the Get Y Free shall be specified in the Promotion Profile.
6. Sell X and Get Y Free – Retailer. Each time a retailer sells a predetermined number of tickets from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement and the Get Y Free shall be specified in the Promotion Profile.
  7. Validate X and Get Y Free – Retailer. Each time a retailer validates a predetermined number or prize amount from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Validate X requirement and the Get Y Free shall be specified in the Promotion Profile.
  8. Buy X and Get Y Free, Every Nth Transaction – Player. Each time a player buys a predetermined number or type of ticket or tickets from the target game or games and that purchase is the Nth transaction produced by the on-line system, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
  9. Sell X and Get Y Free, Every Nth Transaction – Retailer. Each time a retailer sells a predetermined number of tickets from the target game or games and that sale is the Nth transaction produced by the on-line system, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
  10. Complete Survey. The player or retailer who completes a designated survey shall receive the prize type designated in the Promotions Profile.
  11. Special Events – Players. Players who attend a Lottery sponsored special event may participate in activities designed to promote Lottery products. Player participation may include spinning the Lottery prize wheel, various carnival type games of little or no skill, or purchase of tickets for targeted game or games. The prize type shall be designated and awarded according to the Promotion Profile.
  12. Retailer Incentive. The retailer shall become eligible to earn the designated prize type through participation as defined in the Promotion Profile.
  13. Cross Promotion. Players who present a predetermined number of non-winning tickets of the targeted game or games to a participating retailer or vendor shall win the prize type designated in the Promotion Profile.
  14. Media Promotion. Players who participate in media-related promotions shall be eligible to receive the prize type designated in the Promotion Profile. The Lottery shall provide the participating media outlet with coupons or tickets from the targeted game or games or promotional merchandise items.
  15. Customer Service. If a player is inconvenienced or dissatisfied as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with the prize type designated in the Promotions Profile.
  16. Mystery Shopper – Retailer. The Lottery shall send mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Each retailer who meets the requirements specified in the Promotion Profile shall win the designated prize type.
  17. Ask For The Sale – Retailer. Each retailer participating in the promotion shall ask all customers who are determined

to be of legal gaming age if they want to purchase a Lottery ticket for the targeted game or games. If the retailer does not ask an eligible customer, the customer shall receive a free coupon or ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of coupons or tickets from the targeted game or games according to the Promotion Profile.

18. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of tickets, coupons, or promotional merchandise from a targeted game or games to distribute during their charitable event.
19. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile.
20. Multi-State Lottery (MUSL) Promotions. The Lottery may participate in a Multi-State Lottery game-related promotion adopted by the MUSL board.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1005. Repealed

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1006. Repealed

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1007. Procedure for Claiming Prizes and Claim Period

- A. To claim a promotion prize, a claimant must follow the procedure provided in the Promotion Profile.
- B. Promotion details are subject to the terms of the Promotion Profile which may modify or specify the ownership, authentication, validation procedures, or the time period for claiming a prize.

#### Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

#### R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

- A. If a dispute between the Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket or promotion prize with a ticket or promotion prize of equivalent value from any current promotion. The decision of the Director is a final, appealable agency action.
- B. Upon claim verification and payment of a prize, the Lottery shall be discharged of all liability to the claimant.
- C. By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R.  
1077, effective March 3, 2000 (Supp. 00-1). Amended by

final rulemaking at 13 A.A.R. 2775, effective September  
15, 2007 (Supp. 07-3).